

**In The Matter Of:**  
*Jamie Marquardt v.*  
*Nicole Carlton, et al.*

---

*Jamie Marquardt*  
*December 12, 2018*

---

*Fincun-Mancini, Inc.*  
*1801 E. Ninth Street*  
*Suite 1720*  
*Cleveland, Ohio 44114*  
*(216) 696-2272*

**Min-U-Script® with Word Index**

**EXHIBIT**

**1**

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1           IN THE UNITED STATES DISTRICT COURT  
2           FOR THE NORTHERN DISTRICT OF OHIO  
3           EASTERN DIVISION  
4           - - -  
5           Jamie Marquardt,           )  
6           Plaintiff,                )  
7           vs.                        ) Case No. 1:18-CV-00333-SO  
8           Nicole Carlton, et al.,   ) Solomon Oliver, Jr., J.  
9           Defendants.                )  
10          - - -  
11          Deposition of Jamie Marquardt, the plaintiff  
12          herein, called on behalf of the defendants for oral  
13          examination, pursuant to the Federal Rules of Civil  
14          Procedure, taken before Karen A. Toth, Notary Public  
15          in and for the State of Ohio, pursuant to notice, at  
16          the offices of Zashin & Rich, Ernst & Young Tower,  
17          950 Main Avenue, 4th Floor, Cleveland, Ohio 44113 on  
18          Wednesday, December 12, 2018, commencing at  
19          9:58 a.m.  
20          - - -  
21  
22  
23  
24  
25

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9           Patrick J. Hoban, Esq.  
10          Zashin & Rich  
11          Ernst & Young Tower  
12          950 Main Street, 4th Floor  
13          Cleveland, Ohio 44113  
14          Also present:  
15          Nicole Coleman  
16          Jzinae Jackson (After lunch)  
17          - - -  
18  
19  
20  
21  
22  
23  
24  
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1 was for angioedema.  
2 Q And what is that, sir?  
3 A It's a reaction to a blood pressure medicine.  
4 Throat, face, tongue swell.  
5 Q Kind of like anaphylaxis?  
6 A Much worse.  
7 Q And when was that; do you recall?  
8 A I believe I provided that to you. I don't  
9 remember the exact date. There were a  
10 number -- unfortunately it happened a number  
11 of times.  
12 Q What is your current address?  
13 A 10034 Pleasant Lake Boulevard, Apartment J18,  
14 Parma.  
15 Q How long have you been in that apartment?  
16 A At least three years.  
17 Q Do you live with anyone?  
18 A No.  
19 Q And you're divorced; is that correct?  
20 A Correct.  
21 Q And when were you divorced?  
22 A 2015. 2015.  
23 Q Is that when it was finalized?  
24 A I believe so, yeah, somewhere in that area.  
25 Q And what is your ex-wife's name?

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1 A Debra.  
2 Q Does she is still go by Marquardt?  
3 A Yes.  
4 Q Have you discussed with your ex-wife this case  
5 at all?  
6 A Only when she -- yes, I did.  
7 Q What have you discussed?  
8 A I think I -- when it originally happened I  
9 told her what happened.  
10 Q What do you mean by what happened?  
11 MR. LIVINGSTON: Can we clarify the  
12 time frame, whether you were married or  
13 divorced?  
14 MR. VANCE: I'll worry about the  
15 record and whether or not it's clear, okay?  
16 MR. LIVINGSTON: That could be a  
17 privilege. That's why I'm stating that.  
18 MR. VANCE: I asked him when he  
19 spoke with his ex-wife about it.  
20 MR. LIVINGSTON: I know and I'm saying  
21 ex-wife at the time? This is a privilege that  
22 I have to protect. I just want to clarify and  
23 make sure he wasn't married at the time.  
24 Q Were you married at the time of your  
25 separation, sir?

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1 A Separation from the City?  
2 Q From the City.  
3 A No.  
4 Q And how long before your separation from the  
5 City were you divorced; do you recall?  
6 A Maybe less than a year.  
7 Q Okay. So you just stated that you spoke with  
8 your ex-wife about what happened. What is  
9 what happened?  
10 A With the Facebook posts.  
11 Q And what did you two discuss?  
12 A I just told her I didn't do it.  
13 Q Is that a verbal communication?  
14 A Yes.  
15 Q Any other conversations you've had with your  
16 ex-wife about this case?  
17 A Yes.  
18 Q Okay. What is that?  
19 A My kids. My two daughters.  
20 Q For the record, I don't want to know what your  
21 daughters' names are. I'm going to ask you  
22 how old they are here, but other than that  
23 we'll try to keep their names out of the  
24 record, okay?  
25 A Sure.

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1 Q Sorry. I didn't mean to cut you off. I  
2 wanted to make that clear.  
3 A That's okay. My two daughters are being  
4 harassed at school regarding that because it  
5 was in the news.  
6 Q So the two of you spoke about that?  
7 A Yes.  
8 Q Anything else?  
9 A Not that I can recall, no.  
10 Q Are you currently dating?  
11 A No.  
12 Q And how old are your daughters?  
13 A My daughters are 14 and 16.  
14 Q Have you discussed the case with them at all?  
15 A Yes.  
16 Q Okay. What have you told to them?  
17 A That, you know, you're going to see some stuff  
18 on the news.  
19 Q Anything else?  
20 A No.  
21 Q Where did you go to high school?  
22 A Midview.  
23 Q And you graduated of Midview?  
24 A Yes.  
25 Q Do you have any post high school education?

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1 A I don't know for sure who made that post, no.  
2 Q Who do you believe it could be?  
3 A I believe it's a guy named Donnie.  
4 Q I'm sorry, did you say Don or Donnie?  
5 A Donnie. I'm not sure what his -- I call him  
6 Donnie.  
7 Q Any other instances in which you are aware  
8 that someone else made a post on your Facebook  
9 account without your approval?  
10 A Not that I'm aware of.  
11 Q Are you familiar with Facebook Messenger?  
12 A Yes.  
13 Q Describe for me what Facebook Messenger is, if  
14 you could.  
15 A I believe when you send messages back and  
16 forth from one person to another. I believe  
17 that's what they call Facebook Messenger. I  
18 don't know the exact term. I'm assuming  
19 that's what it is.  
20 Q I believe that to be the case as well.  
21 Are you aware of anyone sending  
22 messages via Facebook Messenger on your  
23 behalf?  
24 A No, not that I'm aware of.  
25 Q I'm sorry, not that you're aware of?

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1 A Not that I'm aware of, no.  
2 Q What does it mean to update your status on  
3 Facebook?  
4 A That's a post that's seen -- whenever you  
5 write in that block is seen by all your  
6 friends or everybody, depending on your  
7 security setting.  
8 Q Are you aware of anyone ever updating your  
9 status on behalf of you?  
10 A Yes.  
11 Q Okay. Who was that?  
12 A That's the same.  
13 Q Same incident?  
14 A Yes, that was posted through a -- through a  
15 status update.  
16 Q Any other instances?  
17 A Not that I'm aware of.  
18 Q And also through Facebook you can make posts  
19 or comments on another people's Facebook  
20 pages; is that correct?  
21 A If you're friends, yes, you can answer.  
22 Q So you can make a post on somebody else's  
23 Facebook page, right?  
24 A Yes.  
25 Q And you can also comment on somebody else's

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1 Facebook pages?  
2 A Yes.  
3 Q Are you aware of anyone making a post or a  
4 comment on somebody else's page with Facebook  
5 on your behalf without your approval?  
6 A Not that I'm aware of.  
7 Q Are you aware of any other instance in which  
8 someone has acted as you through your Facebook  
9 account other than the one you mentioned?  
10 A Not that I'm aware of.  
11 Q Has your Facebook account ever been hacked?  
12 MR. LIVINGSTON: Object to the term  
13 hacked.  
14 A Yeah, because I'm technically -- you know,  
15 when somebody, like in this case, uses my  
16 phone it could be called a hack, or it could  
17 be done through a password behind the scenes  
18 hack. So I'm --  
19 Q Other than the incident with Donnie we spoke  
20 about briefly are you aware of any other  
21 instances in which you would consider your  
22 Facebook account to have been hacked?  
23 A No.  
24 Q Ever made any report to Facebook relative to  
25 improper activity on your Facebook account?

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1 A No.  
2 Q Have you ever not posted -- let's talk about  
3 when you were a City employee. Have you ever  
4 not posted something on Facebook because you  
5 felt the posting would be prohibited by City  
6 policy?  
7 MR. LIVINGSTON: Objection.  
8 A Yes.  
9 Q And what were you contemplating posting that  
10 you didn't post?  
11 A Anything relating to my job or the City or a  
12 call.  
13 Q Can you think of a specific instance in which  
14 you were contemplating posting something that  
15 you didn't post?  
16 A No, I didn't contemplate. I knew not to.  
17 Q And what do you believe was prohibited from  
18 posting on Facebook via City policy?  
19 A Anything related to -- like I said, anything  
20 related to the City, my job, a call, a  
21 patient; specific details of, you know, events  
22 that occurred. Anything about my job.  
23 Q And what policy did you believe was applicable  
24 to that?  
25 A I don't think it needs a policy. I think it's

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1 just understood you don't do that.  
2 Q Did somebody tell you that you were prohibited  
3 from doing those things?  
4 A No. It's just an understanding that every --  
5 I mean, you know, you don't post stuff like  
6 that.  
7 Q How did you come to have that understanding?  
8 A Well, my ex works for Cleveland Clinic. They  
9 have a very strict social media policy. So,  
10 you know, I kind of knew the ins and outs of  
11 what you can and can't post, plus just  
12 watching the news.  
13 Q Did anyone ever from the City direct you as to  
14 what you could or could not post on your  
15 Facebook?  
16 A There is a social media policy within the  
17 City.  
18 Q And had you received that social media policy?  
19 A I never received it.  
20 Q You were a captain at the time of your  
21 separation from the City?  
22 A Correct.  
23 Q As part of your duties as captain were you  
24 responsible for ensuring that your  
25 subordinates abided by general orders of EMS?

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1 A Yes.  
2 Q And you had access to those general orders?  
3 A I have access to what I was given.  
4 Q Did you know where you could find general  
5 orders when you were a captain?  
6 A They were starting to be put online.  
7 Q And how do you mean online?  
8 A Through your city account they would be in  
9 folders.  
10 Q Any other way in which you believe that there  
11 are -- how you came to have this understanding  
12 of what was and was not allowed to be posted  
13 on Facebook?  
14 A No.  
15 Q Can you describe for me what happened relative  
16 to Tamir Rice?  
17 A I don't understand the question.  
18 Q So obviously there was a shooting that  
19 involved Tamir Rice, correct?  
20 A Yes.  
21 Q Do you recall when that was?  
22 A No.  
23 Q So let's go back, if we could, go back to  
24 Exhibit 4.  
25 A Okay.

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1 Q In the first paragraph there, second line, it  
2 talks about the shooting of a 12 year old boy  
3 who police said was killed by an officer when  
4 the boy reached toward his waistband for a  
5 realistic pellet gun in November 2014.  
6 A Yes.  
7 Q Is that fairly accurate or is that an accurate  
8 description of the Tamir Rice incident?  
9 A The date appears correct.  
10 Q You believe it was in November of 2014?  
11 A If they put it, yes. I have no reason not to.  
12 Q And is it your understanding that the claim  
13 was that Tamir reached into his waistband for  
14 a gun?  
15 A Am I aware of the claim?  
16 Q Your understanding of the incident?  
17 A Yes.  
18 Q And is it your understanding that that gun  
19 turned out to be fake?  
20 A Yes.  
21 Q And was there an orange safety tip that was  
22 removed from that gun; is that your  
23 understanding?  
24 A I have no idea. I had heard that.  
25 Q That was something that you had heard?

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1 A Yes.  
2 Q And is it your understanding that Tamir was  
3 indeed a 12 year old boy?  
4 A That's my understanding, yes.  
5 Q And that he was shot by the police?  
6 A Yes, that's my understanding.  
7 Q And that he died the following day; is that  
8 right?  
9 A I don't recall when he died. I know he died.  
10 Q Would you consider that incident to have been  
11 a tragedy?  
12 MR. LIVINGSTON: Objection.  
13 A A tragedy?  
14 Q Yes.  
15 A Yes.  
16 Q Let's go to Exhibit 5.  
17 (Defendant's Exhibit 5  
18 marked for identification.)  
19 Q What is Exhibit 5, sir?  
20 A This is the post that ultimately I received my  
21 termination for.  
22 Q There is a couple posts here; is there not?  
23 Two separate posts?  
24 A Yes, this looks like it's the start of the one  
25 on Page 2.

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1 Q So there is a post at the top of Page 1 and  
2 then there is a second post that begins on  
3 Page 1 but it's not the whole thing, and then  
4 the whole thing is on Page 2; is that right?  
5 A Yes. It's a -- this is a post and it looks  
6 like this one is a reply. (Indicating.)  
7 Q A reply to a comment to the original post?  
8 A It must be, yeah.  
9 Q Okay. So if you could for me please read into  
10 the record what the first post is.  
11 A What it is?  
12 Q Yeah, please read it for me.  
13 A "Let me be the first on record to have the  
14 balls to say Tamir Rice should have been shot  
15 and I am glad he is dead. I wish I was in the  
16 park that day as he terrorized innocent  
17 patrons by pointing a gun at them walking  
18 around acting bad. I am upset I did not get  
19 the chance to kill the little criminal  
20 fucker."  
21 Q And then if you could read the reply.  
22 MR. LIVINGSTON: I'll object. The  
23 document speaks for itself, but you can go  
24 ahead.  
25 A "Stop Kevin. How would you feel if you" --

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1 it's cut off -- "Walking in the park and some  
2 ghetto rat pointed a gun in your face? Would  
3 you" -- cut off again -- 'to him as a hero?  
4 Cleveland sees this felony hood rat as a  
5 hero."  
6 Q On the second page there it says two hours  
7 ago. Do you see that on the bottom?  
8 A Yes.  
9 Q And then there is -- what exact time do you  
10 believe that these posts were made on your  
11 Facebook -- these posts showed up on your  
12 Facebook page, correct?  
13 A Yes.  
14 Q And when exactly do you believe these posts  
15 were on your Facebook page?  
16 A Sometime in the morning.  
17 Q The morning of what date, do you recall?  
18 A It would have been the 14th. I believe the  
19 14th. Like I said, I don't know the dates.  
20 Q Okay.  
21 A I would have to look at something. I think  
22 it's the 14th.  
23 Q So let's try and get this date squared away so  
24 we're all on the same page here. You had a  
25 interview with James Votypka of the OIC,

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1 correct?  
2 A Yes.  
3 Q And that interview was the same week as the  
4 post, correct?  
5 A I believe so, yes.  
6 Q Okay. And you were to be truthful during the  
7 interview; is that right?  
8 A Yes.  
9 Q And were you truthful during that interview?  
10 A Yes.  
11 MR. VANCE: Okay. Bill, I don't  
12 have this to give to you today but this is the  
13 recording of that interview. You have it  
14 already. It was produced at -- I can't tell  
15 you the exact number. But after this depo is  
16 over I'll email it to you. And, Karen, I'll  
17 email it to as well so you can include it in  
18 the exhibits.  
19 MR. LIVINGSTON: So are you marking  
20 this as 6?  
21 MR. VANCE: I will mark this as  
22 6.  
23 (Defendants' Exhibit 6  
24 marked for identification.)  
25 MR. VANCE: And so we're all on

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1 the same page, this is Bates stamped City  
2 0560.  
3 If anybody has any trouble listening  
4 or hearing, it should be loud enough but just  
5 say so. I'm just going to play a little bit  
6 of it from the beginning.  
7 (Tape playing.)  
8 (Tape stopped.)  
9 Q Let me pause this for a second. So Sunday  
10 night is when you believe that this started;  
11 is that correct?  
12 MR. LIVINGSTON: Objection. I believe  
13 he said probably Sunday.  
14 MR. VANCE: Then he said it was  
15 Sunday night.  
16 A Whatever the tape says.  
17 Q Let's go back and listen to it again. We can  
18 do that.  
19 (Tape playing.)  
20 (Tape stopped.)  
21 Q Okay. So is it your recollection that on  
22 Sunday night somebody had come over to your  
23 house?  
24 A Yes.  
25 Q Okay. And who was that gentleman that came

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1 over?

2 A Donnie.

3 Q That was Donnie?

4 A Yes.

5 Q All right. So we're all on the same page, I

6 don't intend to mark this as an exhibit but I

7 can if you want me to. This is a printout of

8 a calendar for 2016. Okay. So if you want to

9 take a look at February. I have February

10 here. It says that Sunday was the 14th.

11 A Okay.

12 Q Okay. So your testimony is that Donnie came

13 over to your house on Sunday, February 14,

14 2016 around 9:00 in the evening?

15 A Yes.

16 Q And then you guys were up for some time?

17 A Yes.

18 Q And then these posts were then made the

19 following morning on February 15th, correct?

20 A Yes.

21 Q If we can go back to Exhibit 5. Did you make

22 either this -- let's start with the first

23 post. Did you make the first post?

24 MR. LIVINGSTON: Objection. Asked and

25 answered.

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1 A No.

2 Q And did you make the reply on the second page?

3 A No.

4 Q So generally then, if it's the morning of

5 February 15th, about what time in the morning

6 do you believe these posts were made?

7 A I don't know. It was after I went to bed.

8 Q And when do you recall going to bed that day?

9 A Probably like four or five in the morning.

10 Q So I see here on the second page there is a

11 time there, 9:13.

12 A Okay.

13 Q And down at the bottom it says two hours ago.

14 So using that, and this is a little rough, but

15 give or take, somewhere probably around 7 a.m.

16 these were made?

17 MR. LIVINGSTON: Objection.

18 A That's what it appears to be.

19 Q Somewhere in that general vicinity. And these

20 are indeed the posts that were and did appear

21 on your Facebook account, correct?

22 A Yes.

23 Q As to the second one, ghetto rat, is that

24 something you ever say?

25 A Yes.

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1 Q It is?

2 A Yes.

3 Q What about hood rat, is that something you say

4 as well?

5 A Yes.

6 Q Did you ever talk to Donnie about Tamir Rice?

7 A It's possible. I don't recall a specific

8 conversation.

9 Q Did you ever use that language with Donnie,

10 ghetto rat or hood rat?

11 A It's possible.

12 Q Do you have any recollection of ever doing

13 that?

14 A I don't actually recall a conversation where I

15 said specifically that.

16 Q Either of those things. Do you recall a

17 conversation where you've used either of those

18 phrases with Donnie?

19 MR. LIVINGSTON: Objection. Asked and

20 answered.

21 A I don't recall. I'm not going to say yes, I'm

22 not going to say no. It's possible.

23 Q Do you accept any responsibility for the posts

24 that are in Exhibit 5?

25 MR. LIVINGSTON: Objection.

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1 Relevance.

2 A Do I accept responsibility? It's on my

3 Facebook post so that I'm responsible for.

4 Q Are you saying that you're responsible for

5 what appears on your Facebook page?

6 MR. LIVINGSTON: Objection.

7 A No, I'm saying that it's -- I have to -- it's

8 on my Facebook post, so regardless I'm

9 responsible, you know, for what appears I

10 guess. I don't know how to word it. I didn't

11 do it. I'm not going to take responsibility

12 for it but it's on my Facebook account.

13 Q What's your opinion of these posts --

14 MR. LIVINGSTON: Objection.

15 Q -- in Exhibit 5?

16 A I don't agree with it. It's not my opinion.

17 It's somebody else's opinion. They have a

18 right to it but it's not mine.

19 Q So you wholeheartedly disagree with the

20 contents of the posts in Exhibit 5?

21 MR. LIVINGSTON: Objection.

22 Mischaracterizes his testimony.

23 MR. VANCE: I'm asking him

24 whether he does.

25 A Could you resay that again?

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1 Q Do you wholeheartedly disagree with the  
2 contents of the posts reflected in Exhibit 5?  
3 MR. LIVINGSTON: Objection to the  
4 relevance.  
5 A Most of it, yes.  
6 MR. VANCE: Hold on a second, if  
7 we could. What's the objection to relevance  
8 here? You're objecting an awful lot. It's  
9 not clear to me other than to disrupt the  
10 deposition what the nature of the objection  
11 is.  
12 MR. LIVINGSTON: I was objecting due  
13 to the content of the post. It's in black and  
14 white. Whether he wrote it, whether he didn't  
15 write it, whether he agrees with it, whether  
16 he doesn't agree with it doesn't change the  
17 fact that he was terminated for the content of  
18 this post. That's what we're here today on.  
19 MR. VANCE: There is much more in  
20 play other than the content of the posts.  
21 It's bigger than just that. It speaks to a  
22 whole number of issues.  
23 MR. LIVINGSTON: I disagree. That's  
24 why I made the objection.  
25 MR. VANCE: I would caution you

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1 to have a significant basis.  
2 Q So the purpose of the post --  
3 MR. VANCE: And we'll make it  
4 clear and if you still feel the same way you  
5 can continue to object, but as it stands these  
6 objections are more or less just disrupting  
7 the deposition for no good purpose.  
8 MR. LIVINGSTON: I have to --  
9 MR. VANCE: Let me finish please.  
10 Whether or not he made the posts speaks to his  
11 veracity, speaks to a whole number of issues  
12 That are relevant to the case.  
13 Mr. Marquardt's truthfulness, his veracity are  
14 relevant to the case. You have to agree with  
15 that.  
16 MR. LIVINGSTON: I believe this is a  
17 First Amendment case. I'm not exactly sure  
18 how his veracity would impact this.  
19 MR. VANCE: So whether or not  
20 Mr. Marquardt is a truthful individual is  
21 immaterial to this case; is that your  
22 position?  
23 MR. LIVINGSTON: I think for the  
24 legality of whether the post is protected or  
25 not, yes.

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1 MR. VANCE: Okay. But it's more  
2 than -- you brought more than just a First  
3 Amendment claim; have you not?  
4 MR. LIVINGSTON: Well, I believe it  
5 all goes to the heart of the issue of whether  
6 it's protected or not.  
7 MR. VANCE: The City is allowed  
8 to assert affirmative defenses; is it not?  
9 MR. LIVINGSTON: Of course.  
10 MR. VANCE: Okay. Well, those  
11 affirmative defenses relate to whether or not  
12 Mr. Marquardt is a truthful individual.  
13 MR. LIVINGSTON: Okay.  
14 Q All right. So these posts, these are personal  
15 opinions, correct?  
16 A That's what they appear to be, yes.  
17 Q And the posts are very personal in nature,  
18 agreed?  
19 A Yeah.  
20 Q They reflex the poster's, whomever it was,  
21 attitude as to Tamir Rice?  
22 A I think that's fair to say.  
23 Q And the posts speak specifically about the  
24 poster's desire to have killed Tamir Rice?  
25 A I can't speak on that, what the poster's

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1 motives or whatever is.  
2 Q But the post says very clearly I'm upset I  
3 didn't get the chance to kill the little  
4 criminal fucker, correct?  
5 A Yes. But you're asking me if that poster  
6 actually wanted to kill him. I can't answer  
7 that question.  
8 Q But they expressed upset that they didn't have  
9 the opportunity to do that?  
10 A That's what's written, yes.  
11 Q And the word fucker, is that something that  
12 you typically say?  
13 A No.  
14 Q Is that something you ever say?  
15 A I've said it, yes.  
16 Q Now, you said when I asked you whether or not  
17 you wholeheartedly disagreed with these posts,  
18 you said most of it. What was it that you --  
19 what of these posts do you agree with, if  
20 anything?  
21 MR. LIVINGSTON: In order not to  
22 disrupt your deposition will you give me a  
23 continuing objection as to relevance?  
24 MR. VANCE: Absolutely. A good  
25 solution.



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1 A On Page 1 I would agree that he was walking  
2 around acting bad.  
3 Q Okay. Anything else you don't disagree with  
4 or you don't agree with? Excuse me. Excuse  
5 me. Let me scratch that. Anything else that  
6 you disagree with as to these posts?  
7 A Disagree with?  
8 Q Yes.  
9 A Or agree with?  
10 Q Agree with. Excuse me. Anything else you  
11 agree with as to these posts?  
12 A I believe he -- where it says terrorized  
13 innocent patrons, I believe he did that. Or  
14 the tape, the videotape that was on the news  
15 appeared to show that.  
16 Q Anything else?  
17 A No, not on Page 1.  
18 Q How about Page 2?  
19 A I mean, if I take out the some ghetto rat I  
20 would -- see, I didn't -- I don't know what  
21 the person was replying to. But the fact  
22 that, you know, it's not cool to have a gun  
23 pointed at your head. That's what.  
24 Q Do these posts in any way speak out against  
25 the City of Cleveland?

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1 A The City?  
2 Q Yes, sir.  
3 A No. Well, I mean it says Cleveland but I  
4 don't know what they mean by that.  
5 Q But as you read them you don't feel that they  
6 speak out against the City in any way, do  
7 they?  
8 A I don't know the intention of the writer.  
9 They don't appear to be.  
10 Q If anything they seem to attack Tamir Rice; is  
11 that correct?  
12 A Yes, that's what it appears to be.  
13 Q Do these posts in any way relate to a public  
14 concern, that you're aware of?  
15 MR. LIVINGSTON: Objection. He's not  
16 a lawyer. You can answer.  
17 A I'm not sure. Is there a way you can reword  
18 that?  
19 Q Sure. These posts, as you read them, do they  
20 relate in any way to a social concern?  
21 A This whole case was a social concern.  
22 Q How so do you believe that those posts relate  
23 to a social concern of the City or of the  
24 community?  
25 A I mean, the fact that you have, you know, a

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1 child shot. You have, you know, the police  
2 having to shoot him. You have public outrage.  
3 You have public support. You have -- I mean,  
4 it was just a whole -- it's a national story.  
5 Endless.  
6 Q What part of the sentence "I am upset I did  
7 not get the chance to kill the little criminal  
8 fucker" relates to a social concern, if any?  
9 A I don't know if it's a social concern. It's  
10 someone's opinion.  
11 Q And same question relative to any political  
12 concern; do these posts relate in any way to a  
13 political concern?  
14 A I believe the case is a political concern,  
15 yes.  
16 Q What aspect of "I'm upset I did not get a  
17 chance to kill the little criminal fucker"  
18 relates to a political concern, if any?  
19 A I don't think it has anything to do with it.  
20 Q And why do you believe that the posts here  
21 relate in any way to a community concern?  
22 A I read it as one person's opinion.  
23 Q Okay.  
24 A That's the way I'm reading it.  
25 Q Were these posts upsetting to you?

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1 A I was upset about them, yes.  
2 Q How come?  
3 A Because, number one, it was on my Facebook  
4 post and it made it look like it was my  
5 opinion.  
6 Q And if you had this opinion why would that be  
7 bad?  
8 A Because the person wants to shoot -- it  
9 appears they want to shoot a kid.  
10 Q And you would consider that to be egregious,  
11 the death of a child and the idea that --  
12 A I would consider that --  
13 Q -- somebody wants to kill a child is --  
14 A If that was the person's true intention, yes.  
15 Q Yes, that's pretty heinous?  
16 A It's -- I don't know how to answer that  
17 question because, you know, I've read this  
18 post a thousand times and to me it -- I took  
19 this as it appears that if this person was in  
20 the park that day when the crime was  
21 occurring, it's almost like a support for the  
22 police officer is the way I read this. Now,  
23 if somebody else reads it they can get a  
24 different opinion of it. Obviously it's black  
25 and white. It says what it says. But I think

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1 it's up to the reader to determine. And the  
2 only person that truly knows is the person  
3 that posted it and I'm not him so I don't  
4 know.  
5 Q How exactly do you read the police into either  
6 of those posts, Mr. Marquardt?  
7 A Because it appears -- I don't know about read  
8 the police into it. It appears that there was  
9 a crime being committed and that, you know,  
10 obviously the police shot him and this  
11 person's saying he would shoot him.  
12 Q And that he was angry that he didn't get the  
13 chance to do that?  
14 A Well that one, yeah. I don't see the police  
15 in that part.  
16 Q I'm still confused on where exactly do you  
17 read the police into these posts?  
18 A I don't read the police into it, but at this  
19 particular time, if I recall correctly,  
20 everybody was attacking the police and it  
21 seemed like everybody was polarized in one  
22 direction or the other. They were either  
23 supporting the police and had this type of  
24 opinion or they were supporting, you know,  
25 Tamir Rice and his -- you know, his actions.

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1 Q Where did you fall in that spectrum?  
2 A I saw both sides of it.  
3 Q Were you glad this 12 year old boy Tamir Rice  
4 was dead?  
5 A No.  
6 Q Did you in any way see that as a good thing?  
7 A No.  
8 Q So is it fair to call these posts egregious?  
9 A Yes. I -- yes. I mean, that part of it, yes.  
10 Q Do you agree that these posts have a potential  
11 to affect EMS operations?  
12 A No.  
13 Q Why not?  
14 A Because they didn't. It's my opinion it  
15 didn't affect it at all.  
16 Q Why do you believe that to be the case?  
17 A Because I got blamed for this and I continued  
18 to work after this post was made for a month  
19 and there were absolutely no ill effects about  
20 it. I was worried about that.  
21 Q And you can speak to the totality of EMS?  
22 A I would have heard about it, yes.  
23 Q Why would you have heard about it?  
24 A Because I'm a captain of operations. I  
25 oversee everybody there.

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1 Q You oversee all EMS employees?  
2 A On my shift and when I work overtime hours,  
3 yes.  
4 Q Do you believe that these posts harmed your  
5 friendships?  
6 A No.  
7 Q Why not?  
8 A Because I would have known. Somebody would  
9 have said I don't want to be friends with you  
10 anymore.  
11 Q Do you feel these posts at all negatively  
12 impacted your working relationships?  
13 A No.  
14 Q Had you been the one, at least according to  
15 you that -- and I understand that you say you  
16 didn't make these posts, but had you made  
17 these posts would they have impacted your  
18 working relationships?  
19 A You're asking me to predict something. I  
20 don't know.  
21 Q Were you worried about the adverse effects of  
22 the posts?  
23 A Absolutely.  
24 Q Why?  
25 A Because it was on the news. I was more

Page 72

1 worried about my kids.  
2 Q Anything else you were worried about?  
3 A I was worried that people were going to think  
4 that this was who I was.  
5 Q Any concern that you as a captain of EMS, that  
6 they'd also consider this is who EMS was?  
7 A No.  
8 Q Why not?  
9 A Because people that know me know I wouldn't --  
10 this is not me, so I wasn't concerned about  
11 that.  
12 Q You don't know everybody in the City, correct?  
13 A I thought you were talking about EMS.  
14 Q No, just that there would be a concern that  
15 this would be attributed to you and in turn  
16 attributed to EMS.  
17 A No, I don't believe so.  
18 Q No concern about that whatsoever?  
19 A No.  
20 Q Why not?  
21 A Because everybody had an opinion at the time,  
22 like I said. There were opinions all over the  
23 place.  
24 Q If these posts had been attributed to you as a  
25 captain in EMS could that cause the public to

Page 73

1 become angry with EMS?

2 A I don't -- again, you're asking me to predict

3 something. I don't know. I can't speak for

4 the public.

5 Q Let's say if the public was angry with EMS,

6 would that be a problem for EMS? Could that

7 create a problem?

8 A It could create a problem, yes.

9 Q What do you think the public's reaction would

10 be if it felt that an EMS captain wanted to

11 kill a child?

12 MR. LIVINGSTON: Objection.

13 A I don't know.

14 Q Now, we spoke a little bit about your

15 interview with Mr. Votypka. Were you 100

16 percent truthful as part of that interview?

17 A As I recall, yes.

18 Q Do you recall stating during that interview

19 that I never used the F word?

20 A I never said that. I said I never used the F

21 word on Facebook.

22 Q Let's go back to Exhibit 6, if we could.

23 Just so the record is clear, Exhibit 6

24 is a recording of your interview with

25 Mr. Votypka, correct?

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1 A Yes.

2 Q All right. Let me play it here. If you can

3 listen.

4 (Tape playing.)

5 (Tape stopped.)

6 A I was referring to Facebook when I said I

7 don't use the word fuck or balls. It was

8 Facebook.

9 Q So through Facebook and as part of Facebook

10 you never use fuck --

11 A Not in my posts, no.

12 Q Any other part of Facebook that you use that

13 word?

14 A Maybe during personal conversations, not --

15 Q It talked about also Tamir Rice. Have you

16 ever through Facebook posted anything about

17 Tamir Rice?

18 A Not in my posts, no.

19 Q Not in your posts. Anywhere on Facebook at

20 all?

21 A That's possible. I have conversations all the

22 time with persons.

23 Q Seemed pretty clear to me that this was not

24 necessarily limited to Facebook. I mean, you

25 start off with I never say fuck. I never have

Page 75

1 talked about Tamir Rice.

2 A I would never say that. That's not true.

3 First of all, everybody in the City discussed

4 Tamir Rice, and I would never say that I never

5 used the F word. I was referring to Facebook.

6 My Facebook posts. That's what we were

7 talking about.

8 Q So that testimony relative to your OIC

9 interview with Mr. Votypka, that was strictly

10 limited to Facebook?

11 A Actually, my Facebook word posts, yes.

12 Q How about the N word, have you ever use the N

13 word?

14 MR. LIVINGSTON: Objection. You can

15 answer.

16 A Throughout my whole life?

17 Q Throughout the last five years let's say.

18 A I don't recall. It's possible. I'm not going

19 to deny it.

20 Q Did you use the N word in a derogatory fashion

21 in the last five years?

22 MR. LIVINGSTON: Same objection.

23 A Same answer. Possible.

24 Q You understand that the N word is a highly

25 inflammatory word?

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1 A Yes.

2 Q It's a racist word?

3 A It is highly inflammatory.

4 Q You don't consider it a racist word?

5 A Not always.

6 Q You as a white man, if you were to use that

7 word would you consider it to be racist?

8 MR. LIVINGSTON: Objection. You can

9 answer.

10 A It depends how it's used.

11 Q If you're using it to refer to a black

12 individual, would that be racist?

13 A Not necessarily.

14 Q No? Why not?

15 A Cuz I could -- I use it once in a while. I'm

16 sure I used it with my friends.

17 Q In what context would this word be appropriate

18 with your friends?

19 A Just joking around.

20 Q How so?

21 A Simple as that, just joking around.

22 MR. LIVINGSTON: I'm going to object

23 to this whole line of questioning.

24 Q How do you joke around using that word?

25 A You joke around with your friends. It has no

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1 derogatory meaning. It doesn't.  
2 Q Can you recall context in which you joked  
3 around using the N word?  
4 A No.  
5 Q You were aware that your co-workers complained  
6 about the post in Exhibit 5; were you not?  
7 A Yes.  
8 Q Including that they felt the postings were  
9 unsafe?  
10 A Who are you referring to? I'm sorry.  
11 Q Mark Barrett and Gregory Hyde were two of your  
12 co-workers; were they not?  
13 A One complained, one didn't.  
14 Q Who do you believe did not complain?  
15 A Mark Barrett.  
16 Q You don't think Mark Barrett complained about  
17 the posts?  
18 A He didn't complain.  
19 Q Did he raise the posts to his supervisor?  
20 A Yes, to ask -- so I didn't get in trouble he  
21 asked the supervisor to contact me and asked  
22 if I thought I should take it down, but he  
23 wasn't complaining about it.  
24 Q If he thought maybe you should take it down  
25 does that suggest that Mr. Barrett was

Page 78

1 concerned about the posts?  
2 A No, he told me directly he was concerned about  
3 me.  
4 Q Concerned what about you, your safety?  
5 A That I might get in trouble.  
6 Q Was he concerned about your safety?  
7 A No.  
8 Q How about Mr. Gregory Hyde, was he concerned  
9 that the posts could be unsafe?  
10 A For himself.  
11 Q Was he also concerned about your safety; do  
12 you know?  
13 A No, he didn't specify that.  
14 Q Do you know if other co-workers saw the posts?  
15 A I don't know for sure. I'm sure they did.  
16 Q Are you aware of any others that may have seen  
17 the posts?  
18 A No. I mean, I shouldn't say no. Yeah. Yes,  
19 other people saw it.  
20 Q Other co-workers of yours at the time?  
21 A Yes.  
22 Q Who was that?  
23 A My friend Al told me he read it.  
24 Q Al who?  
25 A Flores.

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1 Q Anyone else?  
2 A John Wearstler.  
3 Q How do you spell John's last name, if you  
4 would?  
5 A It's W-h-e-a-s-t-l-e-r (sic) I believe.  
6 Q Okay. Anyone else?  
7 A I'm sure a lot of people did. I don't know  
8 exactly.  
9 Q A lot of your co-workers saw the posts?  
10 A I'm guessing they did. At least saw the news  
11 story. I don't know. I go by people who  
12 spoke directly to me. So I would say that  
13 Paul Melhuish saw it. I would say Dan Nemeth  
14 saw it. Obviously the captains that reported  
15 it saw it.  
16 Q That would be Michael Threat and Captain  
17 Kazimer?  
18 A Correct. Like I said, I don't know for sure.  
19 I'm assuming they did.  
20 Q And so your co-worker Gregory Hyde and your  
21 co-worker Mark Barrett, both these individuals  
22 raised the posts to a supervisor?  
23 A That's my understanding, yes.  
24 Q And that was close in proximity to the time  
25 the posts were made on February 15th?

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1 A I was not privy to when they called.  
2 Q Now, were you friends with Mark Barrett on  
3 Facebook?  
4 A I don't recall.  
5 Q Were you friends with Gregory Hyde?  
6 A I don't believe so.  
7 Q You agree that these Facebook posts in Exhibit  
8 5 spread pretty quickly?  
9 A I'm not sure.  
10 Q Are you aware that the media learned of the  
11 posts within a day?  
12 A I knew they learned but I'm not sure when.  
13 Q Was their a story about the posts the next  
14 day; do you recall?  
15 A It was close. Yes, I don't know if it was the  
16 next day or --  
17 Q Within three days of the posts let's call it  
18 there was an article on cleveland.com about  
19 the posts and the media picked it up?  
20 A I saw the story on the news.  
21 Q On the news. In fact, on a certain level it  
22 became a national story?  
23 A That's my understanding, yes.  
24 Q And that the Cleveland NAACP made a statement  
25 about it?

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1 A Who?

2 Q The Cleveland NAACP.

3 A Yes, that was during the news story.

4 Q Have you ever made any other posts about Tamir

5 Rice in your Facebook account that you're

6 aware of?

7 MR. LIVINGSTON: Objection. Asked and

8 answered.

9 A No.

10 Q Have you ever make any comments on another

11 people's pages about Tamir Rice?

12 A That's possible. Yeah, that's possible. I

13 don't -- like answering -- you mean, like

14 private conversations and stuff?

15 Q Private conversations or just a post on

16 somebody else's page?

17 A It's possible.

18 Q How about any status updates that you put on

19 your page relative to Tamir Rice?

20 A No.

21 Q Not on your Facebook page in the status

22 updates?

23 A No.

24 Q Have you ever been to the pavilion where the

25 Tamir Rice shooting took place?

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1 A Yes.

2 Q When was the last time you were there?

3 A It was afterwards, after the shooting.

4 Q When?

5 A When they had put a makeshift memorial there.

6 Q What did you do there?

7 A I was on duty. I drove over there, said a

8 prayer.

9 Q Did you stay in your vehicle, get out of your

10 vehicle?

11 A I got out of my vehicle.

12 Q Anybody with you?

13 A No.

14 Q Do you recall what that prayer was?

15 MR. LIVINGSTON: Objection.

16 A I'm not going to answer that.

17 Q You don't have a choice, sir.

18 MR. LIVINGSTON: Answer the question.

19 A I just said a prayer. I prayed that, you

20 know, as a result of this thing happened

21 hopefully God will see him differently than

22 everybody sees him.

23 Q Who is hopefully God will see him; who are you

24 referring to as him?

25 A Tamir Rice.

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1 Q How did you see Tamir Rice?

2 A A victim of circumstance.

3 Can we take a break?

4 Q Sure.

5 (Short recess.)

6 MR. VANCE: Back on the record.

7 By Mr. Vance:

8 Q Mr. Marquardt, what is your opinion of black

9 people?

10 MR. LIVINGSTON: Objection.

11 A I don't have an opinion.

12 Q Have you ever been called a racist before?

13 A Not that I can recall. Yes, that's not true.

14 Q When was that?

15 A Well, it was indicated from Reginald Anderson

16 that works at Cleveland EMS.

17 Q What context was that; do you recall?

18 A It was regarding my objection to the Baltimore

19 riots.

20 Q How did that come up?

21 A It was a Facebook post.

22 Q Facebook post that you had made?

23 A Yes.

24 MR. VANCE: Mark this 7.

25 (Defendants' Exhibit 7

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1 marked for identification.)

2 Q Could you identify for me what Exhibit 7 is,

3 sir?

4 A It's a Facebook post.

5 Q And is this the Facebook post that you're

6 referring to when you're talking about

7 Reginald Anderson?

8 A Yes.

9 Q Could you read that Facebook post for me?

10 A "Open fire in Baltimore. Gun them all down.

11 When did we start tolerating this behavior?"

12 Q And was that a post that you had made?

13 A Yes.

14 Q Do you recall when you made that post?

15 A It says April 27th. I'm not sure what the

16 year was.

17 Q Was that related to the Freddie Gray unrest in

18 Baltimore; are you aware?

19 A I'm not sure of the name, to be honest with

20 you.

21 Q Do you recall what you were referring to then

22 here in this post?

23 MR. LIVINGSTON: Objection.

24 A Yeah.

25 MR. LIVINGSTON: Objection. You can

Page 85

1 answer.  
2 A Yes. I turned on the television and  
3 protesters were hitting police officers in the  
4 head with bricks.  
5 Q And your response to that was to --  
6 A Right there. Yes, that was my response.  
7 Q Gun all the protesters down?  
8 A Yes. Not all the protestors.  
9 Q You don't differentiate. You just say all  
10 here?  
11 A Yes, but I meant the ones who were assaulting  
12 police officers.  
13 Q But you don't provide that here, correct?  
14 A Correct.  
15 Q And how was it that you came to learn that  
16 Mr. Anderson had complained about this?  
17 A He had sent an email or letter to Commissioner  
18 Carlton. I'm not sure which one. The Union  
19 President for the paramedics sent me a copy.  
20 Again, I don't remember if it was a hard copy  
21 or an email copy but I had an opportunity to  
22 read it.  
23 Q Okay. And did you talk with anybody else  
24 about this post?  
25 A No.

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1 Q And Mr. Anderson, he was the Union President  
2 of the -- what was Mr. Anderson's --  
3 A No, he had a newly elected second vice  
4 president, I believe.  
5 Q Of CARE?  
6 A Yes.  
7 Q And what's CARE?  
8 A It's the Cleveland Association of Rescue  
9 Employees. It's the union for street level  
10 paramedics, EMTs and dispatchers.  
11 Q And he had raised this concern with the City  
12 about this post?  
13 A He wrote a letter raising concern, yes.  
14 Q Did you talk with anybody at the City about  
15 this post?  
16 A Paul Melhuish. He sent me it.  
17 Q What did the two of you discuss?  
18 A That it was -- he was out of line.  
19 Q Who was out of line?  
20 A Paul indicated to me that he was out of line  
21 in sending that post, that he was not supposed  
22 to do it that way and sent me a copy of it to  
23 read.  
24 Q Oh, Paul had sent you the post, sent you the  
25 email from Reginald?

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1 A Sent me the letter -- like I said, I don't  
2 remember. I believe it was an email, but he  
3 sent me a copy. That's what it was. I think  
4 it was an attachment to an email. It was a  
5 copy of the letter.  
6 Q And Paul suggested he shouldn't do it that  
7 way?  
8 A He indicated -- he let me know that this  
9 letter was in existence. He said Reggie  
10 Anderson went around him as president and gave  
11 this to Nicole, and he said I'll send you a  
12 copy of what he sent her.  
13 Q Okay.  
14 A And that's how it came about.  
15 Q Did you have any other conversations with  
16 anybody at the City relative to this post here  
17 in Exhibit 7?  
18 A No, not that I can recall.  
19 Q Did you receive any discipline relative to  
20 this post?  
21 A No.  
22 Q And you believe that as part of that complaint  
23 Mr. Anderson suggested you were a racist; is  
24 that right?  
25 A That's the way I read his letter, yes.

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1 Q Any other instance?  
2 A No. No.  
3 Q Do you ever curse on your Facebook page?  
4 MR. LIVINGSTON: Objection.  
5 A I would imagine I have.  
6 Q So if you said at any point in time nor do I  
7 ever curse on my Facebook page that would be  
8 inaccurate?  
9 A That would be inaccurate probably.  
10 Q Go back to Exhibit 5 if we could for a second.  
11 A Which one is 5?  
12 Q The posts.  
13 A Okay.  
14 Q On the second page where it says "Stop Kevin."  
15 A Yes.  
16 Q Who is Kevin, do you believe?  
17 A If I remember right -- it doesn't say on here,  
18 but I believe it's Kevin Poplar.  
19 Q Had Kevin made some sort of comment? I notice  
20 on the first page there is one comment. It  
21 refers to there being one comment. Did Kevin  
22 comment on the original post?  
23 A I don't know. It's not on here.  
24 Q And you deleted that? If there were any  
25 comments they've been deleted?

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1 A This was printed before I deleted anything.  
2 Q Had to have been, otherwise we wouldn't have  
3 it.  
4 A No, but I mean the reply. There is something  
5 missing is what I'm saying. Because Kevin's  
6 replying to something.  
7 Q Well, you're replying to Kevin.  
8 A Right, but first of all, it's not me, but --  
9 Q Your account is replying to Kevin?  
10 A Right. But whatever Kevin had written is not  
11 in here.  
12 Q Right. And that would most likely be -- if  
13 you go to the first page there is one comment  
14 to the original post?  
15 A Yes.  
16 Q Do you recall whether or not you ever read  
17 that comment?  
18 A I don't recall.  
19 Q So you don't know if that comment was made by  
20 Kevin or not?  
21 A I just -- I can't figure this out because it  
22 says one comment but then it's got this  
23 comment under there. So that -- there would  
24 have to be two comments.  
25 Q Not necessarily if you reply to a comment.

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1 A There is a comment. This one and Kevin's.  
2 Q But you don't have -- all this had been  
3 deleted. You deleted all this from your  
4 Facebook account, correct?  
5 A When I saw it, yes.  
6 Q But that Kevin you believe to be Kevin Poplar?  
7 A I believe so, yes.  
8 Q And that's your cousin?  
9 A Yes.  
10 Q And you don't have any recollection of any  
11 comments that were made to your original post,  
12 what that one comment may have been?  
13 A No.  
14 Q Do you recall when you went to bed on February  
15 15th, when in that morning?  
16 A Yeah, I said it was probably four or five.  
17 Q Four or five in the morning, a.m.?  
18 A Yeah.  
19 Q And do you recall when it was that you woke  
20 up?  
21 A I think it was somewhere around noon. I know  
22 it was after noon.  
23 Q And how exactly was it that you found out  
24 about the Facebook posts?  
25 A There were a number of messages on my phone

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1 and then there were a number of messages on  
2 Facebook.  
3 Q Messages on your phone, I'm assuming those are  
4 text messages you're referring to?  
5 A Text messages, voice messages.  
6 Q Let's start with voice messages. Do you  
7 recall who left a voice mail for you?  
8 A I believe my sister.  
9 Q Which sister?  
10 A Her name is Shelley.  
11 Q What's her last name?  
12 A Nowak.  
13 Q And any other voice mail messages that you're  
14 aware of?  
15 A Not that I can recall. As I said, I don't  
16 remember.  
17 Q And I'm assuming you don't have that voice  
18 mail message any longer?  
19 A No.  
20 Q Who all do you recall receiving texts from?  
21 A I can't differentiate between texts and  
22 Facebook messages.  
23 Q Okay.  
24 A So I don't know which one they did. You know,  
25 I can't remember that far back.

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1 Q Who do you recall either sending you a  
2 Facebook message or a text message about the  
3 posts?  
4 A The ones I remember were John Wearstler. I'm  
5 trying to think who else did. I think John  
6 McNamara but I'm not sure.  
7 Q Who is John McNamara?  
8 A Somebody I used to work with.  
9 Q In EMS?  
10 A Yes. I don't recall who else called me.  
11 Q You don't have any of these messages anymore  
12 I'm assuming?  
13 A No.  
14 Q You deleted them?  
15 A Yeah. I have to because voice mail only holds  
16 so much and the messages on Facebook only goes  
17 so long I think.  
18 Q How certain are you that Donnie made these  
19 posts on Exhibit 5?  
20 A How do you want me to --  
21 Q If you had to assign a percentage to it, if  
22 you're on a scale of zero to 100 percent,  
23 what's your comfort level that Donnie was the  
24 one that did this?  
25 A I'd say 90.

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1 A Probably have.  
2 Q Did Donnie make any other posts or did  
3 anybody -- were any other posts made the early  
4 morning of February 15th other than what's in  
5 Exhibit 5?  
6 A If they were I didn't see them.  
7 Q Are you aware of whether or not he sent any  
8 Facebook messages on February 15th on your  
9 behalf?  
10 A He might have. I'm not sure.  
11 Q Unaware of any?  
12 A I'm not aware of any, yes.  
13 Q Do you believe that Donnie did anything else  
14 with your phone?  
15 A I don't know. I can't -- I don't have any  
16 evidence if he did.  
17 Q Were any other text messages, Facebook  
18 messages, anything else sent on February 15th  
19 that you did not send?  
20 A I don't remember.  
21 Q Don't recall whether or not there were any  
22 text messages sent that weren't from you?  
23 A There was something else that happened. I  
24 can't remember what it was now. But I don't  
25 recall specifically what it was.

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1 Q Do you believe that the Facebook posts on  
2 Exhibit 5 were the reason the City discharged  
3 you?  
4 A Yes.  
5 Q Any other reason?  
6 A No.  
7 Q Who do you think made the decision to  
8 discharge you?  
9 A I don't know who did.  
10 Q Any idea? Any inkling whatsoever?  
11 A Well, just three.  
12 Q Okay. Who are the three you think?  
13 A Nicole Carlton, Ed Eckart or the Mayor.  
14 Q Any reason to believe or any evidence to  
15 suggest that the Mayor was involved in the  
16 decision to discharge you?  
17 A Do I have any evidence? No.  
18 Q Why do you believe that the Mayor may have  
19 been involved?  
20 A Because it was a media story. I'm sure he was  
21 aware of it.  
22 Q But no evidence to suggest that he was  
23 involved in the decision?  
24 A I don't have any physical evidence, no.  
25 Q Anybody tell you that?

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1 A No.  
2 Q How about Ed Eckart? He's the assistant  
3 safety director for the City?  
4 A Correct.  
5 Q That was his position at the time of your  
6 separation?  
7 A Yes.  
8 Q And he used to be the commissioner of EMS,  
9 correct?  
10 A Correct.  
11 Q And why is it that you believe that Ed Eckart  
12 may have been involved in your discharge?  
13 A Well, he was interviewed the day after the  
14 post was made.  
15 Q Interviewed by whom?  
16 A Ed Gallek.  
17 Q Did he say anything?  
18 A He pretty much came on there and accused me of  
19 it before the hearing was held.  
20 Q Anything that you received that suggested that  
21 Ed made the decision to discharge you?  
22 A No.  
23 Q Anybody say that it was Assistant Safety  
24 Director Eckart's decision?  
25 A No.

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1 Q How about Commissioner Carlton, why do you  
2 believe it was her decision to discharge you?  
3 A Because she said it during the arbitration.  
4 Q Do you think it was an easy decision for  
5 Commissioner Carlton to make?  
6 MR. LIVINGSTON: Objection.  
7 A I don't know.  
8 Q Do you have any idea who replaced you after  
9 your separation?  
10 A Nobody directly replaced me. I think they  
11 hired -- I heard they hired people or promoted  
12 a couple people.  
13 Q So after your separation someone else was  
14 promoted to captain of operations?  
15 A That's what I understand.  
16 Q Your position remained there, it was just now  
17 somebody else was in it?  
18 A Correct. As far as I know.  
19 Q So what exactly did you do in response to the  
20 posts once you saw them?  
21 A I erased them right away and then I posted a  
22 global apology. Status update apology.  
23 Q Why was it that you apologized?  
24 A Because I apologized if anybody thought it was  
25 me.



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1 Q Did you apologize due to the inflammatory  
2 nature of the posts?  
3 A Yes.  
4 Q How long did you think the posts were up for  
5 total?  
6 A I don't -- I'm not sure.  
7 Q Less than -- probably at least less than 12  
8 hours if you went to bed at five?  
9 A Definitely, yeah.  
10 Q Definitely less than 12. And did you contact  
11 Commissioner Carlton that day about the posts?  
12 A Yes.  
13 Q And you contacted her the same day that you  
14 learned of the posts, correct?  
15 A I believe so.  
16 Q Did you ever file for bankruptcy before?  
17 MR. LIVINGSTON: Objection.  
18 A No.  
19 Q Other than your divorce have you ever been a  
20 party to another legal action? Not criminal,  
21 civil.  
22 A Not that I'm aware.  
23 Q Have you ever asserted any other claims  
24 against an employer?  
25 MR. LIVINGSTON: Objection.

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1 A What do you mean by claims?  
2 Q Have you ever sued another employer?  
3 A No.  
4 Q Not including the grievance related to your  
5 separation from the City did you ever file any  
6 other grievance while you worked for the City?  
7 A Yes, but I can't remember what for.  
8 Q Do you have any idea how many you think you  
9 filed?  
10 A Not many.  
11 Q Less than two, less than -- I mean less than  
12 three?  
13 A I can't remember because I was doing  
14 grievances too as a union member. So as a --  
15 as an employee I don't believe I filed a  
16 grievance, but if I did it was only one or  
17 two.  
18 Q But you did obviously grieve your separation?  
19 A Yes. Yes.  
20 Q Have you ever testified in court before?  
21 A Yes.  
22 Q When was that?  
23 A It was in the '90s. Probably late '90s.  
24 Q Do you recall what the case was?  
25 A Yeah, councilman accused of beating his wife.

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1 Q Do you remember who the councilman was?  
2 A Cintron.  
3 Q Can you spell that?  
4 A C-i-n-t-r-o-n I believe.  
5 Q And did you respond to the call?  
6 A Yes.  
7 Q Any other instance in which you testified in  
8 court?  
9 A Not that I can recall.  
10 Q Have you ever been convicted of any crimes?  
11 A Traffic included?  
12 Q Yes.  
13 A Yes.  
14 Q When was that? If we can, let's work  
15 backward. When was the most recent?  
16 A Oh, boy. 2002, maybe.  
17 Q Okay. What was that?  
18 A A DUI.  
19 Q And were you actually then convicted or did  
20 you plead to a DUI?  
21 A Yes.  
22 Q And the City was aware of that?  
23 A Yes.  
24 Q You kept your job?  
25 A No. Can I correct you?

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1 Q Absolutely.  
2 A It was 1997.  
3 Q Maybe '96?  
4 A Possible.  
5 Q So that was shortly after you had been hired,  
6 right?  
7 A Right.  
8 Q So when you were hired -- where you hired -- I  
9 have it at September 5, 1995; is that right?  
10 A Yes.  
11 Q And what position were you hired into?  
12 A Paramedic.  
13 Q EMT? Same thing or different?  
14 A Different.  
15 Q Different. Okay.  
16 All right. Anything else that you can  
17 think of as to crimes that you may have been  
18 convicted for?  
19 A No.  
20 Q Did you receive any discipline from the City  
21 for that?  
22 A Yes.  
23 Q For the DUI I'm asking?  
24 A Yes.  
25 Q Do you remember what that was?

1 A I was off duty. The case was being handled so  
2 I wasn't paid for that time. They called it  
3 administrative suspension.  
4 Q Unpaid admin suspension?  
5 A Unpaid, yes.  
6 Q How was it that you came to work for the City?  
7 A A friend of mine I was working with named John  
8 McNamara.  
9 Q He worked for the City at the time?  
10 A He worked for the -- he worked for the City  
11 and he worked part time --  
12 Q I got to ask, Mr. Marquardt, I got to ask you  
13 not to try to read what your counsel was  
14 writing.  
15 A I wasn't reading.  
16 Q Sorry. Go ahead.  
17 MR. LIVINGSTON: I'd be happy to show  
18 you.  
19 A I wasn't reading, I was just staring.  
20 Q That may well be the case.  
21 A What was the question?  
22 Q The question was how was it that you came to  
23 work for the City, and you referenced John  
24 McNamara.  
25 A John McNamara worked for the City and both of

1 A Yes.  
2 Q And you were promoted at different times  
3 during your employment?  
4 A Yes.  
5 Q And where was it that you were promoted or  
6 what position were you promoted into?  
7 A Sergeant of logistics.  
8 Q And do you recall when that was?  
9 A 2002, 2003 area.  
10 Q Any other promotions?  
11 A No, that would have been '13. I'm sorry.  
12 Q 2012, 2013?  
13 A Somewhere in that area, yeah.  
14 Q Any other promotions?  
15 A Yeah, to captain.  
16 Q And when do you think you were promoted to  
17 captain?  
18 A Probably about -- probably '14, '15.  
19 Q Okay.  
20 A It would have been '15. It would have been  
21 '14.  
22 Q '14, somewhere in there?  
23 A Yeah.  
24 MR. VANCE: Just so we're clear,  
25 I wasn't suggesting -- let the record reflect

1 us worked for Life Care Ambulances. I was  
2 full time, he was just PRN.  
3 Q And he suggested that you apply for the City?  
4 A Yes.  
5 Q And you did, you got hired?  
6 A Yes.  
7 Q And were you a member of the union?  
8 A Yes.  
9 Q And what union were you a member of at the  
10 time that you were hired; do you recall?  
11 A CARE.  
12 Q CARE. And then you subsequently became a  
13 member of another union?  
14 A Yes.  
15 Q Different union. What union was that?  
16 A CWA.  
17 Q And that was upon a promotion?  
18 A Not the sergeant promotion, the captain  
19 promotion.  
20 Q So CARE represents we'll say the rank and  
21 file, and then you have the sergeants. CWA  
22 represents the captains?  
23 A Correct.  
24 Q And you were represented -- you were a union  
25 member at the time of your separation?

1 that I didn't think counsel was trying to, you  
2 know, share any information with  
3 Mr. Marquardt.  
4 Q At the time of your separation whom did you  
5 report to?  
6 A Directly David Miller.  
7 Q And what was his position?  
8 A Administrative -- or no, he was --  
9 Q Assistant commissioner or assistant director?  
10 A I forgot now. Assistant -- assistant  
11 commissioner maybe. Deputy commissioner. I'm  
12 sorry --  
13 Q Deputy commissions --  
14 A -- I couldn't think of the word.  
15 Q -- of EMS?  
16 A Yes.  
17 Q The entirety of your employment with the City  
18 was in EMS?  
19 A Yes.  
20 Q At the time of your separation what were your  
21 job duties as a captain?  
22 A There were two. There was one shift you  
23 worked the dispatch center and you would field  
24 complaints, oversee the dispatchers, allocate  
25 resources, problem solve and just make sure

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1 you had a smooth operation. It's the main  
2 point of the -- the dispatch center oversees  
3 how the whole service is running.  
4 Q So that's one. And then what is the other?  
5 A Field operations.  
6 Q And what did that entail?  
7 A It entailed getting the staffing together for  
8 the field, allocating overtime, dealing with  
9 supply issues the units have, and then also  
10 going out and going on calls and monitoring  
11 field employees for compliance.  
12 Q So you were responsible for potentially caring  
13 for individuals that are injured as part of  
14 crime?  
15 A Yes.  
16 Q And you're aware that EMS responded to the  
17 Tamir Rice shooting; is that correct?  
18 A Yes.  
19 Q And EMS was responsible for caring for Tamir?  
20 A I don't know what exactly happened on the  
21 call, but I assume, yes. I don't know if he  
22 called -- meaning I don't know if he was  
23 pronounced or they transported him or not. I  
24 don't remember.  
25 Q He didn't actually pass away until the

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1 following day or sometime after the shooting.  
2 Do you recall that at all?  
3 A I don't remember.  
4 Q So assuming he was still alive at the time  
5 they arrived on scene, EMS would have cared  
6 for Tamir?  
7 A I would imagine, yes. Hopefully.  
8 Q And EMS transported Tamir?  
9 A I don't know. That's what I'm say, I don't  
10 know if they did or not.  
11 Q No reason to disagree with that or any reason  
12 to dispute that EMS transported Tamir Rice?  
13 A If that's what you say I have to believe you.  
14 I don't have any evidence to the contrary.  
15 Q Any reason to dispute that your EMS colleagues  
16 worked to save Tamir Rice's life?  
17 A If they transported him they would have, yes.  
18 Q Any idea whether or not any of your colleagues  
19 suffered trauma as a result of the Tamir Rice  
20 incident, including those that treated him?  
21 A I'm not aware.  
22 Q Is EMS also responsible for treating those  
23 that may be injured during times of civil  
24 unrest?  
25 A Yes. We're responsible at all times.

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1 Q So I mean, in a nutshell EMS is responsible  
2 for caring for all individuals within the City  
3 regardless of race, how they were injured,  
4 anything?  
5 A Absolutely, yes.  
6 Q As a captain were you responsible for  
7 enforcing the City's rules?  
8 A Yes.  
9 Q Were you responsible for recommending  
10 discipline?  
11 A No.  
12 Q No. Were you responsible for reporting  
13 misconduct?  
14 A Yes.  
15 Q What would you have done if you saw the posts  
16 in Exhibit 5?  
17 MR. LIVINGSTON: Objection.  
18 Q And if they were made by a subordinate of  
19 yours, if they were on the page of a  
20 subordinate of yours, what would you have done  
21 in that instance?  
22 MR. LIVINGSTON: Objection.  
23 A A subordinate of mine?  
24 Q Yes.  
25 A Nothing.

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1 Q Nothing. You would just have left them?  
2 A No. It happens all the time.  
3 Q Have you ever seen a post before where  
4 somebody is disappointed that he didn't get a  
5 chance to kill a child?  
6 A I haven't seen one, no.  
7 Q So is it your contention then that it was  
8 improper for Captain Threat to report it?  
9 A I never said that.  
10 Q Well, if you wouldn't have reported it -- if  
11 you saw it as captain, you wouldn't have  
12 reported these posts in Exhibit 5; is that was  
13 your testimony is?  
14 A Yes.  
15 Q So was it then improper for Captain Threat to  
16 report it?  
17 A No. That's his --  
18 Q Why wouldn't you have reported it?  
19 MR. LIVINGSTON: Objection. Asked and  
20 answered.  
21 A Because nowhere does it say anything about EMS  
22 on there.  
23 Q Just ignore it?  
24 A Yeah.  
25 Q And as a captain you're responsible for

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1 directing and controlling and monitoring the  
2 activities of your shift?  
3 A Yes.  
4 Q You may at times be required to supervise a  
5 crisis situation?  
6 A Yes.  
7 Q Do you have a good working relationship with  
8 your co-workers?  
9 A Yes.  
10 Q Was that important, as a captain, to have a  
11 good working relationship with your  
12 co-workers?  
13 A Yes, I believe so.  
14 Q Would you agree that it's inherent in EMS's  
15 mission to provide assistance without  
16 prejudice or bias?  
17 A Absolutely.  
18 Q How many employees were on your shift that you  
19 oversaw as a captain, give or take?  
20 A Around 40 or so, 45.  
21 Q Would you agree that it's important that those  
22 employees are able to trust you?  
23 A That's what I strived for.  
24 Q So that would be something that's important?  
25 A To me, yes.

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1 Q Is it also important that you're able to trust  
2 your employees?  
3 A Yes.  
4 Q Would it be a problem if your employees lied  
5 to you?  
6 A It depends what the subject matter is.  
7 Q Something related to work.  
8 A Again, it depends on the situation.  
9 Q You agree with me that the EMS employees are  
10 required or should be truthful in engaging in  
11 their duties for the City, correct?  
12 A Yes.  
13 Q Do you agree that EMS needs the trust of the  
14 community to operate efficiently?  
15 A No.  
16 Q You don't think the community needs to trust  
17 EMS?  
18 A You just said to run efficiently. No, I don't  
19 believe to run efficiently. Desired.  
20 Q That's desired?  
21 A Yes.  
22 Q Do you believe that it would be helpful for  
23 EMS's operations if it had the trust of the  
24 community?  
25 MR. LIVINGSTON: Objection. Asked and

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1 answered.  
2 A I don't think so. No.  
3 Q You don't think so. So whether or not the  
4 community trusts EMS is immaterial to how EMS  
5 operates?  
6 A I think we would still operate the same.  
7 Q Why is that?  
8 A Because you'd have the same people, same  
9 truck, same service provider.  
10 Q You recall you testified during your  
11 arbitration, correct?  
12 A Yes.  
13 Q And do you recall that you were under oath at  
14 the time of that arbitration, correct?  
15 A Yes.  
16 Q Let me ask you again. Would you agree with me  
17 that EMS needs the trust of the community to  
18 operate effectively?  
19 MR. LIVINGSTON: Same objection.  
20 A No.  
21 Q Okay. Mark this as Exhibit 8.  
22 (Defendants' Exhibit 8  
23 marked for identification.)  
24 Q Did you testify truthfully during your  
25 arbitration, by the way?

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1 A To the best of my recollection, yes.  
2 Q Okay. When you get a chance can you identify  
3 for me what Exhibit 8 is?  
4 A It says it's a transcript of the arbitration.  
5 Q And that arbitration was held on January 18,  
6 2018; is that your recollection?  
7 A That's what it says on here, yes.  
8 Q Can I have you flip to Page 200. So I'm  
9 talking about the pages in the top right-hand  
10 corner here. (Indicating.) There is  
11 technically four pages on a page.  
12 A Uh-huh.  
13 Q Specifically I'll direct you to Line 14. You  
14 see all the lines are marked there on the  
15 side?  
16 A Yes.  
17 Q "Question: Now, you would agree with me that  
18 EMS needs the trust of the community to  
19 operate effectively?  
20 Answer: I agree."  
21 So that was a question that was posed  
22 to you and your response was I agree?  
23 A Yes.  
24 Q Do you agree with that question?  
25 A At the time -- at that time that was my

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1 opinion.  
2 Q That was your opinion at that time?  
3 A At that time, yes.  
4 Q And now your opinion has changed?  
5 A Yes.  
6 Q Why has your opinion changed?  
7 A Well, because we watched the police department  
8 and they had no control, no support of the  
9 City and they still are running effectively.  
10 Q How long do you believe the police department  
11 hasn't had the support of the City, the  
12 community?  
13 A For a while.  
14 Q How long is a while?  
15 A Probably at least since 2015 maybe.  
16 Q 2015?  
17 A Yeah, somewhere in that area.  
18 Q Okay.  
19 A This made it worse.  
20 Q The posts made it worse?  
21 A No, the Tamir Rice shooting made it worse.  
22 Q The Tamir Rice shooting made it worse.  
23 I'm struggling a bit. Again, your  
24 arbitration was on January 18, 2018. So at  
25 that moment in time you didn't believe that

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1 the police had the trust of the community,  
2 correct?  
3 A I don't remember.  
4 Q Well, you just said that the police haven't  
5 had the trust --  
6 A I'm saying at that time.  
7 Q Hold on, sir. Let me finish my question. You  
8 said at least dating back to 2015 the police  
9 have not had the trust of the community,  
10 correct?  
11 A I'm saying approximately then. I don't know  
12 exact date. That's not something you can put  
13 a date on.  
14 Q Okay. The difference between 2015 and 2018 is  
15 pretty significant; wouldn't you agree?  
16 A It's three years.  
17 Q Right.  
18 A Okay.  
19 Q So then if at the time of your arbitration you  
20 felt that the police department didn't have  
21 the trust of the community why did you agree  
22 with this statement or with this question?  
23 A I don't remember.  
24 Q So we're clear, on January 18, 2018 you agreed  
25 that EMS needs the trust of the community to

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1 operate effectively, correct?  
2 A That's how I answered the question.  
3 Q And that's what you believed at that moment?  
4 A At that moment that's how I answered the  
5 question, yes.  
6 Q Is that what you believed at that time?  
7 A That's what's written. I don't even recall  
8 the question, to be honest with you.  
9 Q Is there any reason why you would have been  
10 untruthful during this arbitration?  
11 A No.  
12 Q So was that a truthful response at the time of  
13 the arbitration?  
14 A Yes.  
15 Q Okay. Tell me again why your answer has  
16 changed to the exact same question between  
17 January 18, 2018 and today, December 12, 2018?  
18 A Because as I sit here, you asked me the  
19 question, that's how I feel. I'm being  
20 truthful. That's how I feel right now.  
21 Q And what has changed your feelings from  
22 January 18, 2018 to today?  
23 A I haven't been asked that question since then,  
24 so to say something changed I don't know.  
25 That's an opinion question. And at that

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1 particular time that was my opinion. Today  
2 you asked me the same question. I don't  
3 remember being asked that question, but I  
4 answered that's my opinion. What changed I  
5 can't tell you.  
6 Q You worked for EMS for how long, sir?  
7 A It would have been 21 years.  
8 Q 21 years. So that particular question talks  
9 about whether or not EMS needs the trust of  
10 the community to operate effectively, correct?  
11 A Yes.  
12 Q And your answer to that question would have  
13 been based in part on your 21 years of  
14 experience working for EMS, correct?  
15 A It's based on my opinion.  
16 Q Which is in part derived from your 21 years on  
17 the job?  
18 A That's part of it, yeah.  
19 Q And you haven't been on the job between  
20 January 18, 2018 and today, correct?  
21 A No.  
22 Q EMS regularly interacts with the public; is  
23 that a fair statement?  
24 A Yes.  
25 MR. VANCE: Take a brief break,

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1 been disciplined by the City, was it?  
2 A No.  
3 Q You've been given a number of chances by the  
4 City; isn't that correct?  
5 A No.  
6 Q No?  
7 A No.  
8 Q You were put on a last chance agreement at  
9 some point, sir?  
10 A Yes.  
11 Q And generally speaking the last chance  
12 agreement means that that is your last chance,  
13 if you screw up again you're going to be  
14 discharged; is that right?  
15 A Yes.  
16 Q And you did screw up again, is that right,  
17 while on that last chance agreement?  
18 A Yes. Yes.  
19 Q And then you were not discharged though, were  
20 you?  
21 A No.  
22 Q Rather your last chance agreement was  
23 extended?  
24 A Yes.  
25 (Defendants' Exhibit 12

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1 marked for identification.)  
2 Q I'm going to hand you what has been marked as  
3 Exhibit 12. Can you identify for me this  
4 document, sir?  
5 A Yeah, it's a missed in-service.  
6 Q And this a discipline that you received?  
7 A Yes.  
8 Q On August 14, 2006?  
9 A Yes.  
10 Q And you were suspended for one eight-hour day;  
11 is that right?  
12 A Yes.  
13 Q You grieved this discipline?  
14 A No.  
15 (Defendants' Exhibit 13  
16 marked for identification.)  
17 Q Hand you what has been marked as Exhibit 13.  
18 Can you tell me what that is, sir?  
19 A Yeah, this is a notice of a predisciplinary  
20 hearing.  
21 Q Is this actually the discipline?  
22 A No.  
23 Q It says at the beginning, "On June 25, a  
24 predisciplinary hearing was held" --  
25 A Hold on a second. Oh, yes. Okay.

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1 Q And you were disciplined on June 26, 2009; is  
2 that correct?  
3 A Yeah, everybody that worked at that base was  
4 disciplined.  
5 Q And you were issued a written warning?  
6 A Yes.  
7 Q Did you grieve that discipline?  
8 A I believe it was grieved.  
9 Q Do you recall what the outcome was?  
10 A No.  
11 Q Did you engage in the complaint of conduct?  
12 A Did I what? I'm sorry.  
13 Q Was it accurate that run sheets were found on  
14 clipboards and not in sealed envelopes?  
15 MR. LIVINGSTON: Object to the  
16 relevance. You can answer.  
17 A Yes, they were. Let me see, yes. Okay.  
18 Q And not sealing the run sheets in an envelope  
19 is a problem because of why?  
20 A Because the City doesn't like it.  
21 Q Run sheets include confidential patient  
22 information?  
23 A The fact that they are in a clipboard instead  
24 of an envelope, to me it makes no difference.  
25 It's the same thing.

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1 Q How so?  
2 A It's not available to be viewed by anybody.  
3 Q So it's important that run sheets aren't  
4 available to the public?  
5 A Yes.  
6 Q And the information on a run sheet is  
7 considered confidential?  
8 A Some of it is, yes.  
9 Q What about details as to your runs, like  
10 what's transpired on a run, injuries suffered  
11 as part of -- you know, to the people that you  
12 serve, is that stuff considered confidential?  
13 A There is an organization called HIPAA that  
14 lists what's okay and what's not.  
15 Q So providing, for example, injuries that  
16 individuals suffered, that type of stuff, is  
17 that problematic?  
18 A No.  
19 Q No. That's okay to do?  
20 A Yeah.  
21 (Defendants' Exhibit 14  
22 marked for identification.)  
23 Q Handing you what's been marked as Exhibit 14.  
24 What's Exhibit 14?  
25 A It's a missed in-service.

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1 Q And you were disciplined for missing an  
2 in-service day; is that right?  
3 A Yeah, there is 12 of them a year. Every time  
4 you miss one you get a -- that's why there is  
5 so much discipline.  
6 Q You were suspended for one eight-hour day as a  
7 result of this?  
8 A Yeah.  
9 Q Did you grieve this at all?  
10 A Uh-huh.  
11 Q I'm sorry, is that a yes or no?  
12 A No. I'm sorry.  
13 (Defendants' Exhibit 15  
14 marked for identification.)  
15 Q I'll hand you what has been marked as Exhibit  
16 15. Take a look at that, sir. What is  
17 Exhibit 15, sir?  
18 A It's from 2010. It's a last chance agreement.  
19 Q This is your last chance agreement?  
20 A Yes.  
21 Q And why was it or how was it that you came to  
22 be on this last chance agreement?  
23 A Well, when I voluntarily went into substance  
24 or alcohol treatment, at most places they  
25 encourage that, the City they discipline you

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1 for it. So when I voluntarily went in they  
2 put me on a last chance agreement.  
3 Q Where was --  
4 A It's a conduct last chance agreement.  
5 Q Where was it that you went in?  
6 A Glenbeigh.  
7 Q Glenbeigh. This was a two year last chance  
8 agreement; is that correct?  
9 A Yes.  
10 Q So during that two year period I think you  
11 testified earlier that this last chance  
12 agreement was actually extended; is that  
13 right?  
14 A I don't know if this was the one that was  
15 extended or if this is the extension. Yeah,  
16 I'm not sure if this one is the original or  
17 the extension.  
18 Q You missed time from work due to your stay at  
19 Glenbeigh I'm guessing?  
20 A Yes. Yeah. It was an in-treatment program.  
21 Q How long was it; do you know?  
22 A I don't recall. I think it was close to maybe  
23 45 days.  
24 Q Was there anything that prompted you to go to  
25 Glenbeigh, some significant event, something

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1 that happened?  
2 A I don't recall what was happening at the time,  
3 no.  
4 Q Then do you recall what it was, what incident  
5 transpired that resulted in the breach of the  
6 last chance agreement?  
7 A Do I recall the incident?  
8 Q Yes.  
9 A Yes.  
10 Q What was that, sir?  
11 A Me and my wife were going through a divorce,  
12 getting ready to go through a divorce and I  
13 texted my older sister that I wish it was all  
14 over, and she -- meaning the divorce. She  
15 took that as a suicidal ideology and called  
16 the Cleveland Police Department.  
17 Q Were you drunk at the time?  
18 MR. LIVINGSTON: Objection.  
19 A I was drinking.  
20 Q Were you intoxicated at that time?  
21 A I don't believe so, but I was drinking.  
22 (Defendants' Exhibit 16  
23 marked for identification.)  
24 Q Handing you what has been marked as Exhibit  
25 16.

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1 A Okay.  
2 Q And you'll see there on the second page, what  
3 exactly is Exhibit 16, sir?  
4 A It appears to be an extension of the last  
5 chance agreement.  
6 Q That's dated September 8, 2011?  
7 A Yes.  
8 Q And there on the second page it talks about  
9 your last chance agreement is extended an  
10 additional year through June 11, 2013?  
11 A Yes.  
12 Q Did you feel as though Commissioner Eckart cut  
13 you a break as related to this?  
14 MR. LIVINGSTON: Objection.  
15 A Did I consider it a break?  
16 Q Yeah.  
17 A He could have fired me, yes.  
18 Q Did you think Commissioner Eckart hated you at  
19 all?  
20 MR. LIVINGSTON: Objection.  
21 A I don't know what he -- how he felt about me.  
22 Q Commissioner Eckart ever do anything to you  
23 that was spiteful?  
24 MR. LIVINGSTON: Objection.  
25 A Well, I mean --

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1 MR. LIVINGSTON: You can answer.  
2 A I don't know what he's done and what he hasn't  
3 done.  
4 Q Any reason to believe that Commissioner Eckart  
5 has ever been malicious to you?  
6 A I don't have any evidence of that, no.  
7 Q Did you grieve at all the discipline or the  
8 extension of your last chance agreement?  
9 A No.  
10 Q What happened after your sister called the  
11 police department?  
12 A They came to the house.  
13 Q And what happened at the house?  
14 A They told me they were going to take me in.  
15 Q And what was your reaction to that?  
16 A No.  
17 Q Anything else?  
18 A Yeah, we got in a huge argument.  
19 Q You got into a huge argument with the police  
20 department?  
21 A Yes.  
22 Q Did you attempt to assault police officers?  
23 A I don't remember.  
24 Q Maybe, you don't know?  
25 A I think when he tried to take me, yeah, by

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1 force.  
2 Q You resisted?  
3 A Yes. I didn't do anything wrong.  
4 Q You get charged with any crimes as part of  
5 that?  
6 A No.  
7 MR. VANCE: I'm going to mark  
8 this Exhibit 17.  
9 (Defendants' Exhibit 17  
10 marked for identification.)  
11 Q Have you had an opportunity to take a look at  
12 what Exhibit 17 is?  
13 A Yep.  
14 Q And Exhibit 17 is a Cleveland Police  
15 Department offense/incident report dated  
16 8-21-11; is that right? Actually the date on  
17 the top is 8-23-11; the date of the incident  
18 8-21-11?  
19 A Yes.  
20 Q Does this relate to your sister calling the  
21 police department over that incident?  
22 A Yes.  
23 Q It suggests here that you were threatening to  
24 shoot yourself in the garage; is that  
25 accurate?

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1 A No, that's not accurate.  
2 Q No?  
3 A No.  
4 Q It states here also that you were on  
5 depression meds including Zanax; is that  
6 accurate?  
7 A No.  
8 Q Not on any depression medication?  
9 A Not on Zanax in my entire life.  
10 Q Have you ever taken any depression medication?  
11 A Yeah, I was on Zoloft.  
12 Q Zoloft?  
13 A Yes.  
14 Q When did you take that?  
15 A Years ago.  
16 Q Years ago. Did you ever suffer from  
17 depression at the time you took Zoloft?  
18 A Yes.  
19 Q But you no longer suffer from depression?  
20 A No, that's not true.  
21 Q I asked you earlier -- do you currently suffer  
22 from depression?  
23 A Yes.  
24 Q I asked you earlier today if you suffered from  
25 any medical conditions today.

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1 A That's not a medical condition.  
2 Q It's not. What exactly is depression?  
3 A Psychiatric.  
4 Q Let me ask you again. Do you suffer to any  
5 psychiatric conditions today?  
6 A Yes, depression.  
7 Q Anything else?  
8 A Generalized anxiety.  
9 Q And how long have you suffered from  
10 depression?  
11 A Maybe 20 years.  
12 Q And how about generalized anxiety?  
13 A Same time.  
14 Q And when did you first start taking medication  
15 for depression?  
16 A That same -- that's when I was diagnosed.  
17 Q 20 years ago, give or take?  
18 A Yes.  
19 Q Have you taken any medication for your  
20 generalized anxiety?  
21 A No. Same meds.  
22 Q Same medication for both?  
23 A Yes.  
24 Q And when was it that you were taking  
25 medication for depression?



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1 Q Did you tell the officers fuck you?  
2 A Probably. I'd say possible. I don't  
3 remember.  
4 Q Did you say you mother fuckers?  
5 A It's possible.  
6 Q Did you cock your arm back as if you were  
7 going to throw a punch at one of the officers?  
8 MR. LIVINGSTON: Objection.  
9 Relevance.  
10 A I don't recall that now.  
11 Q Possible but you don't recall?  
12 A I don't remember.  
13 MR. VANCE: Mark this Exhibit 19.  
14 (Defendants' Exhibit 19  
15 marked for identification.)  
16 Q You were living in the City of Cleveland at  
17 the time of that incident, correct?  
18 A Correct.  
19 Q So that was the Cleveland Police Department  
20 that had responded?  
21 A Yes.  
22 Q And when you were worked for EMS you would  
23 interact with the Cleveland Police Department  
24 on a regular basis?  
25 A Yes.

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1 Q Exhibit 19, what is Exhibit 19, sir?  
2 A Discipline.  
3 Q And what is that discipline for?  
4 A Sick abuse.  
5 Q Sick leave abuse?  
6 A Yes.  
7 Q Did you receive discipline relative to that  
8 sick leave abuse?  
9 A Prior to that?  
10 Q No, as part of this, this discipline.  
11 A Yes.  
12 Q There was a written warning?  
13 A Yes.  
14 Q And did you grieve this discipline at all?  
15 A I told my union to grieve it and they dropped  
16 the ball and never did.  
17 Q We talked just briefly about this. Do you  
18 remember Freddie Gray at all? Do you recall  
19 that name?  
20 A No.  
21 Q No, you do not.  
22 Do you recall that there was a state of  
23 emergency declared within the city limits of  
24 Baltimore?  
25 MR. LIVINGSTON: Objection.

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1 A I know there was a riot, that's all. I don't  
2 remember.  
3 MR. VANCE: Why don't we take a  
4 break here, break for lunch.  
5 (Luncheon recess.)  
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1  
2 AFTERNOON PROCEEDINGS  
3 By Mr. Vance:  
4 Q Mr. Marquardt, we've now broke for lunch.  
5 Back on the record again. Just to remind you  
6 that you do remain under oath.  
7 MR. VANCE: I'll mark this  
8 Exhibit 20. Off the record for a second.  
9 (Discussion off the record.)  
10 MR. VANCE: Back on the record.  
11 By Mr. Vance:  
12 Q Mr. Marquardt, I'm going to hand you what I've  
13 marked as Exhibit 20.  
14 (Defendants' Exhibit 20  
15 marked for identification.)  
16 Q Take a look at this document. What this is  
17 document, sir?  
18 A This is a notice of a predisciplinary hearing.  
19 Q And this is the predisciplinary hearing  
20 related to the Facebook post?  
21 A Right.  
22 Q And that notice is dated February 24, 2016?  
23 A Yes.  
24 Q And did you receive this notice?  
25 A Yes, I did.

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1 Q Did you have an opportunity to read and review  
2 it before your actual predisciplinary hearing?  
3 A Yes.  
4 Q You received a -- throughout the discharge  
5 process did you receive an explanation as to  
6 the City's evidence related to your  
7 separation?  
8 A No.  
9 Q No?  
10 A Not throughout the hearing process, no.  
11 Q I'm sorry, say that again?  
12 A What time frame are you talking about?  
13 Q Prior to your separation.  
14 A There was some brought up during this  
15 predisciplinary hearing.  
16 Q And did you have a full opportunity to present  
17 your side of the story as part of the  
18 predisciplinary process?  
19 A Yes.  
20 Q And you actually had then -- your  
21 predisciplinary hearing, was it on March 4,  
22 2016?  
23 A Yes. I don't believe we rescheduled it.  
24 Q And as part of that hearing do you recall  
25 presenting text messages with your ex-wife?

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1 A Yes.  
2 Q Why was it that you presented those text  
3 messages?  
4 A Because that's when you present them is during  
5 the predisciplinary hearing.  
6 Q Was there a specific purpose though that you  
7 wanted to use that text message exchange with  
8 your ex-wife?  
9 A Yes.  
10 Q What was that?  
11 A To show that I was helping somebody at the  
12 time.  
13 Q At the time of the post?  
14 A Yes.  
15 MR. VANCE: Mark this as Exhibit  
16 21.  
17 (Defendants' Exhibit 21  
18 marked for identification.)  
19 Q Going back to Exhibit 20 for a moment. That  
20 predisciplinary letter, it had two  
21 specifications related to posts that were on  
22 your Facebook page?  
23 A Yes.  
24 Q And then it listed a number of alleged  
25 violations that the City claimed that you had

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1 engaged in?  
2 A Yes.  
3 Q Exhibit 21, are these the text messages with  
4 your ex-wife that you presented to the City?  
5 A Yes.  
6 Q And these were the texts you presented -- and  
7 when I say presented to the City I mean at  
8 your predisciplinary hearing?  
9 A Yes, I believe they are.  
10 Q When exactly were these texts exchanged in  
11 terms of the date and the general time? I  
12 have the first text, a least according to this  
13 Exhibit 21, is February 14 at 3:30 a.m.; is  
14 that right?  
15 A That's what is on here, yes.  
16 Q The last text at approximately February 14,  
17 2016 at 4:59 a.m.?  
18 A Yes.  
19 Q Okay. Are these dates accurate, times  
20 accurate?  
21 A I have to go by what it says. I believe so.  
22 Q Now, these texts then were actually sent 24  
23 hours before Donnie was at your house and the  
24 posts were actually made; is that right?  
25 A These texts were sent the night Donnie was

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1 over.  
2 Q We've already established earlier today that  
3 Donnie was at your house, he came and arrived  
4 at your house on February 14th at around 9:00  
5 in the evening was the testimony and what we  
6 established earlier today, correct?  
7 A I believe so. If that's what we went over.  
8 Q Yes. Now these text messages are from earlier  
9 in the day on February 14, 2016, so  
10 approximately 18 hours before he was over,  
11 before you even -- not quite 18 hours. Before  
12 he even came over to your house these text  
13 messages were exchanged?  
14 A Then one of the dates is Wrong either on the  
15 phone or the Facebook because it wasn't that  
16 long.  
17 Q So in your arbitration you had stated that you  
18 believe the times on these text messages were  
19 incorrect. Is that what your testimony is  
20 here today as well?  
21 A If it's that kind of time frame, yes, one of  
22 them is off.  
23 Q Of the two which one do you believe is off?  
24 A Probably this one. (Indicating.)  
25 Q This one being the text messages in Exhibit

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1 21?

2 A Not the content. The content is correct. I

3 remember typing it. I'm talking about the

4 times that are on the phone.

5 Q So the actual times the 2-14-16, 3:30 a.m.;

6 2-14-16, 4:20 a.m.; 2-14-16, 4:36 a.m.;

7 2-14-16, 4:59 a.m., you believe those times

8 are incorrect?

9 A The dates at least are, if that's what you're

10 saying.

11 Q The date, the date of February 14, 2016?

12 A Yes. Because according to what happened, if

13 it was on the 15th then this should be the

14 15th.

15 Q Do you have any explanation for why the date

16 is not February 15th in these texts?

17 A The time must be wrong on the phone. I don't

18 have any idea why that's not the time or the

19 dates. Must be something wrong with the

20 phone.

21 Q Has that ever happened to you before?

22 A I never really paid attention, to be honest

23 with you.

24 Q So other than the date must be wrong any other

25 explanation for that?

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1 A No.

2 Q So the first text here with your ex-wife --

3 and Deb I'm assume, at the top that's short

4 for Debra your ex-wife?

5 A Yes, that is correct.

6 Q The first text here it says, "Trust me, it is

7 an L & D situation." What's L & D stand for?

8 A Life and death.

9 Q What was the L & D situation?

10 A That he was having a rough time and I thought

11 he should be going in the psych ward, and he

12 hinted towards committing suicide.

13 Q And this is --

14 A That's what I was referring to.

15 Q And you're talking about Donnie here?

16 A Yes.

17 Q Donnie was only at your house one night,

18 right?

19 A That night, yes.

20 Q But only once did he ever stay over the night

21 at your house?

22 A Yes.

23 Q We can go to the next page here. This talks

24 about, "I am with a friend that is hell bend

25 on ending his life tonight. I am truly afraid

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1 to leave and do not want CPD involved. Could

2 you please answer me?" Again, that is friend

3 Donnie, your friend Donnie?

4 A Yes.

5 Q "I am going to psych ward with him"?

6 A Yes.

7 Q Is that Donnie as well?

8 A Yes.

9 Q And did you go to the psych ward with Donnie?

10 A No. He wouldn't go.

11 Q And then, "I have been tied up with a

12 patient." Is that from Deb?

13 A Yes.

14 Q And then these last few, "Can't pick up the

15 girls at 1. Maybe later on Monday would be

16 better."

17 A Yes.

18 Q "It's ok. I am stuck in a mess," Those are

19 from you?

20 A Yes.

21 Q So you're saying the content of texts are

22 correct?

23 A Yes.

24 Q This is what was actually exchanged between

25 you and your ex-wife?

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1 A Yes.

2 Q It's just this 2-14-16 date should be 2-15-16?

3 A Yeah. I'm not sure if the date and time are

4 wrong or just the date.

5 Q But at a minimum the date?

6 A Yes.

7 Q And do you often communicate with your ex-wife

8 late at night like this?

9 A Yes. She works night shift.

10 Q Okay.

11 A So she sleeps during the day.

12 Q And why was it that you would be up at that

13 late an hour? Is that something you typically

14 did? Would you typically stay up until three,

15 four, five in the morning?

16 A At the particular time I was on night shift so

17 my body kind of kept me up. But in this

18 particular case it was because he was there.

19 Q What schedule did you generally keep then when

20 you were working night shift? When were you

21 actually on the clock, assuming no overtime?

22 What was your shift?

23 A 6P to 6A.

24 Q 6 p.m. to 6 a.m.?

25 A Yes.

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1 Q And then you would get off, and then would you  
2 then go to sleep at that point?  
3 A Yes, most times.  
4 Q And get up when?  
5 A It depends if I had to work or not.  
6 Q Do you know if you were scheduled to work on  
7 February 14th, the day Donnie came over? Did  
8 you work that prior day?  
9 A No, I believe I was on vacation.  
10 Q And then were you also on vacation that  
11 Monday, the 15th?  
12 A I know I was on vacation the date of the  
13 initial hearing with Votypka.  
14 Q Were you on vacation that whole week?  
15 A Part of it, yeah. I don't remember how many  
16 days. It was a short -- it wasn't like a two  
17 week vacation. It was short.  
18 Q So now on February 15th, the day you found out  
19 about the text messages, you texted  
20 Commissioner Carlton; is that right?  
21 A Yes, I did.  
22 (Defendants' Exhibit 22  
23 marked for identification.)  
24 Q Handing you what I've marked as Exhibit 22.  
25 When you get a chance, can you please identify

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1 what Exhibit 22 is for me, sir?  
2 A It appears to be a partial post between me and  
3 Commissioner Carlton.  
4 Q These were text messages that you provided?  
5 A Yes, some of them are cut off. Okay. Yeah.  
6 Yes.  
7 Q Okay. And then anything that is cut off, is  
8 the full text on the next page?  
9 A That's what I was looking at. Okay.  
10 Q So they are complete?  
11 A Okay.  
12 Q The best you recall; is that right?  
13 A Yes.  
14 Q The time for the first text here, the time  
15 that you sent that, is that below the text or  
16 is the time above the text; if you know?  
17 A I don't know.  
18 Q What kind of phone did you have at the time;  
19 do you remember?  
20 A H -- what is this. It's three letters. I  
21 can't remember. It's H something something.  
22 HTC. That's what it was.  
23 Q That was the phone you had?  
24 A Yes, at the time.  
25 Q So the first text here, let's just go through

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1 that. If you read it into the record so we  
2 have it. And that is a text from you to  
3 Nicole, correct?  
4 A You want me to read it?  
5 Q Yeah, just the first one.  
6 A "Before the word gets to you I have to tell  
7 you. A jerk of a friend grabbed my phone last  
8 night as I ran an errand and trying to be  
9 funny made some awful Facebook posts. My  
10 friends called me today to let me know and I  
11 was horrified when I read them. These are not  
12 my beliefs and I certainly did not write them.  
13 I posted an apology, but I feel the damage may  
14 already have been done. Again, I just wanted  
15 you to know I did not post what was written."  
16 So the jerk of a friend, who are you  
17 referring to there?  
18 A Donnie.  
19 Q And what errand did you run?  
20 A That's the laundry.  
21 Q That's when you were getting laundry?  
22 A Yeah, doing the laundry.  
23 Q So is that when he posted these, when you were  
24 doing laundry?  
25 A That's when I originally thought he did.

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1 Q And when did you -- and now you believe that  
2 he posted them when?  
3 A When I first read them I deleted them so I had  
4 no idea what time they were posted so I  
5 believe he did it when I was doing laundry.  
6 Then when I got copies of the actual posts, a  
7 hard copy, then I realized that they were done  
8 later in the day.  
9 Q Who did you get a hard copy of the posts from?  
10 A I asked a couple people. I don't remember who  
11 said. I asked Wearstler and -- I think  
12 Wearstler may have sent it to me. John  
13 Wearstler.  
14 Q How did he send those to you; do you recall?  
15 A No, I don't.  
16 Q Do you still have those complete posts?  
17 A No.  
18 Q What did you do with them?  
19 A Probably deleted them.  
20 Q Do you recall when you deleted them?  
21 A No.  
22 Q Before or after your separation?  
23 A It would have been before.  
24 Q Why did you delete them?  
25 A Cuz space reasons. I delete all my stuff.

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1 Q Do you recall beginning with after "Is your  
2 friend able to send a letter; that would go a  
3 long way," do you recall the text message  
4 after that? So the text messages that you  
5 provided, they end there.  
6 A Yes.  
7 Q And then Commissioner Carlton has a record of  
8 another text message from you where you say,  
9 "I will take care of him in my own way. No,  
10 he will not do that under any circumstances.  
11 Like I said, I'll deal with him." Do you  
12 recall texting Commissioner Carlton that?  
13 A No, I don't recall but I don't deny it either.  
14 Q What about the next one, "He is afraid it will  
15 end up on the news and he will be labeled as a  
16 racist. Although the post was not criminal in  
17 any way, it was very insensitive and I do not  
18 want anyone attempting to kill him over this."  
19 Do you recall sending that text message to  
20 Commissioner Carlton?  
21 A No, I don't. I don't deny it either.  
22 Q Same thing with the next text message. At  
23 some point you texted Commissioner Carlton  
24 what the post was; did you not?  
25 A Yes.

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1 Q And you did that that day?  
2 A I believe so, yes.  
3 Q And that post is -- or at least that text  
4 appears to be the substance of the post?  
5 A I don't remember if she asked for it or if I  
6 just sent it to her.  
7 Q Okay. But you recall texting her?  
8 A I believe I did, yes.  
9 Q How about "That was the post..... I feel so  
10 bad right now;" do you recall texting her  
11 that?  
12 A No, but I may have.  
13 Q Don't deny sending her that text?  
14 A Right, I'm not denying it.  
15 Q And then the next one, "Do you now understand  
16 why I am so upset?"; do you recall texting her  
17 that?  
18 A I kind of remember that, yes.  
19 Q And then on March 19th presumably 2016 did you  
20 text Commissioner Carlton about a story that  
21 aired on Channel 19 about her? Take your  
22 time. It's the second to last text.  
23 A Yes, I believe I texted her that, yes.  
24 Q Is that how you felt at the time?  
25 A Yes.

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1 Q It says "My girls respect you," that your  
2 girls respected Commissioner Carlton; is that  
3 accurate?  
4 A Yes, they went to the same school with her  
5 daughter.  
6 Q And did you respect Commissioner Carlton?  
7 A Yes.  
8 Q Did you have a good relationship with  
9 Commissioner Carlton?  
10 A Yes.  
11 Q And was that true as of through your  
12 separation, or as of your separation?  
13 A Before the separation.  
14 Q Okay. So up until the point you were  
15 separated you had what you would classify as a  
16 good relationship with Commissioner Carlton?  
17 A Yes.  
18 Q Do you have any reason to believe that  
19 Commissioner Carlton hated you for any reason?  
20 A No.  
21 Q Any reason to believe that Commissioner  
22 Carlton would act maliciously towards you?  
23 A I don't have any evidence of that.  
24 Q Any reason to think that Commissioner Carlton  
25 acted with ill will toward you?

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1 A I believe it was an overreaction is what I  
2 believe.  
3 Q But not necessarily out of ill will toward you  
4 as a person?  
5 A I don't think it was a personal attack.  
6 Q And then Thursday, March 17, that was I  
7 believe the day after you received notice of  
8 your separation. Thursday, March 17, 2016.  
9 Do you recall sending that text message to  
10 Commissioner Carlton?  
11 A Yes, I do.  
12 Q Flipping back to the first page, the second  
13 text from the bottom, it says "He's afraid it  
14 will end up on the news and he will be labled  
15 as a racist." Labeled spelled a little wrong  
16 but I'm assuming that's what was meant. He,  
17 is that referring to Donnie?  
18 A It appears so, yes.  
19 Q And did Donnie express this to you at any  
20 point in time?  
21 A I don't recall it but if I wrote it he must  
22 have.  
23 Q When we talked earlier you didn't testify that  
24 he had said anything along these lines; do you  
25 recall that?

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1 A Yes.  
2 Q So do you have a different memory now what you  
3 spoke to him about at McDonald's?  
4 A This is going to be clearer because this is  
5 right when it happened, as opposed to my  
6 memory today.  
7 Q Unless, of course, this is untruthful in which  
8 case then it would not be accurate?  
9 A I have no reason to believe this is  
10 untruthful. I would say I just don't remember  
11 it.  
12 Q But you have no recollection of Donnie ever  
13 saying anything like that?  
14 A I have no recollection, no.  
15 Q And you're not even sure whether or not this  
16 was texted before or after you saw Donnie at  
17 McDonald's; do you know?  
18 A I want to say -- I can't say with 100 percent  
19 certainty but I want to say the text to Nicole  
20 came afterwards.  
21 (Defendants' Exhibit 24  
22 marked for identification.)  
23 Q Handing you what we have marked as Exhibit 24.  
24 What is Exhibit 24, sir?  
25 A Termination letter.

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1 Q That's dated March 16, 2016?  
2 A Yes.  
3 Q And you received this?  
4 A Yes.  
5 Q And did you grieve your discharge?  
6 A Yes. Yes.  
7 Q And you had an arbitration. There was an  
8 arbitration conducted before a neutral  
9 arbitrator that was selected by the City and  
10 your union?  
11 A Yes.  
12 Q And during that arbitration you had a full  
13 opportunity to present your side of the story  
14 to the City?  
15 A Yes.  
16 Q And you testified during that arbitration?  
17 A Yes.  
18 Q And were you required to testify truthfully  
19 during that arbitration?  
20 A Yes.  
21 Q Were you truthful during that arbitration?  
22 A To the best of my knowledge, yes.  
23 Q And that was closer in time to the incident  
24 than we are today. So is it fair to say,  
25 based on your comments earlier, that your

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1 testimony during your arbitration would be  
2 more accurate than what you can recall right  
3 now?  
4 A I didn't say that.  
5 Q You suggested that the text message that was  
6 on the last exhibit would likely be more  
7 accurate than what you recall today because  
8 that was closer in time.  
9 A I was talking about that one, not a general.  
10 Q As a general matter you don't believe your  
11 arbitration testimony would be more accurate  
12 than your testimony here today?  
13 A Not necessarily. Depends on the question.  
14 Q And the Arbitrator ultimately decided to  
15 uphold your discharge?  
16 A Yes.  
17 Q And you received Exhibit 24, correct?  
18 A What? I'm sorry.  
19 Q Exhibit 24, you received this document, right?  
20 A Yes, I did. I signed for it.  
21 Q And did you text anyone following your receipt  
22 of this decision?  
23 A I'm sure I did.  
24 Q Why was that?  
25 A Because I lost my job.

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1 Q Did you text anyone at the City?  
2 A I'm sure I did.  
3 Q Do you remember who you texted at the City?  
4 A Probably a lot of people.  
5 Q Anybody you recall specifically?  
6 A I'm sure I texted my friends.  
7 Q Okay. Anyone else?  
8 A I said probably. Probably a lot of people.  
9 Q Anybody else that you can recall that you  
10 think you texted?  
11 A Like I said, I don't know exactly who.  
12 Q Do you still have any of those text messages?  
13 A No.  
14 (Defendants' Exhibit 25  
15 marked for identification.)  
16 Q Handing you what has been marked as Exhibit  
17 25. I wanted to ask you a few specific  
18 questions about 25. First, what is Exhibit  
19 25, sir?  
20 A It appears to be an arbitration decision by  
21 the Arbitrator.  
22 Q That arbitrator was Robert Stein?  
23 A Yes.  
24 Q And this was the decision relative to your  
25 termination grievance, correct?

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1 A Yes.  
2 Q And have you seen this decision before?  
3 A Yes, I have.  
4 Q Would you agree with me that the Arbitrator  
5 determined you refused to accept any personal  
6 responsibility for the loathsome and racist  
7 remarks on Facebook?  
8 A That's what he wrote.  
9 Q Would you agree with me that the Arbitrator  
10 determined your testimony about Donnie was  
11 implausible in light of the evidence and what  
12 is at stake?  
13 A That was his opinion, yes.  
14 Q Would you also agree with me that the  
15 Arbitrator found that you made the post?  
16 A That was his opinion, yes.  
17 Q Now, before the arbitration determination came  
18 out you filed a complaint in federal court,  
19 correct? That's why we're here today?  
20 A Before the arbitration?  
21 Q Yeah, before the arbitration decision.  
22 A Yes, sir, I believe it was before.  
23 Q The arbitration decision, just so the record  
24 is clear, was dated, it appears to be the  
25 April 23, 2018; is that accurate?

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1 A Yeah, I have no reason to believe it's not.  
2 MR. VANCE: Mark Exhibit 26.  
3 (Defendants' Exhibit 26  
4 marked for identification.)  
5 Q What is Exhibit 26, sir?  
6 A Seems to be a notice of a federal court  
7 hearing.  
8 Q Is this your complaint you filed relative to  
9 this lawsuit?  
10 A Let's see.  
11 Q Look at the first page, if you can. The  
12 caption.  
13 MR. LIVINGSTON: I'll object to the  
14 extent that he's not a lawyer and he did not  
15 prepare this document.  
16 MR. VANCE: This is a complaint  
17 that was filed on his behalf. I would expect  
18 that he would at least have been aware of it  
19 and seen it before today.  
20 A Yeah, I'm aware of it.  
21 Q Have you seen this document before today?  
22 A Yes.  
23 Q And you understand that this complaint puts  
24 forth facts as if they were true; is that  
25 correct?

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1 A Yes.  
2 Q Is that your understanding?  
3 Let's flip to Paragraph 15, if we  
4 could.  
5 A Which one? Which document are you on?  
6 Q Same document, Exhibit 26.  
7 A Which page?  
8 Q Paragraph 15. So it's on Page 3.  
9 A Okay. Sorry.  
10 Q Paragraph 15, do you see that?  
11 A Yes.  
12 Q It says, "Specifically, on the evening of  
13 February 13, 2016, an acquaintance of  
14 Plaintiff's known to him only as Donnie  
15 arrived unannounced at Plaintiff's home,  
16 seeking help." Do you see that?  
17 A Yes.  
18 Q We established earlier that Donnie actually  
19 arrived unannounced at your home on February  
20 14th, correct?  
21 A Yes.  
22 Q So for Paragraph 15 the reference to February  
23 13 is incorrect?  
24 MR. LIVINGSTON: Objection.  
25 A Yes.

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1 Q Paragraph 17 states that you stayed up through  
2 the night of February 13th and into the  
3 morning of February 14th with Donnie. Again,  
4 February 13th is incorrect?  
5 A Yes.  
6 Q And February 14th is incorrect?  
7 A Yes.  
8 Q That should actually read, according to your  
9 testimony, February 14th and into the morning  
10 of February 15th, correct?  
11 MR. LIVINGSTON: Objection.  
12 A It appears to be, yes. That's what -- judging  
13 from the evidence, the stuff that was  
14 submitted, yes.  
15 Q Your testimony from what we've discussed  
16 earlier, correct?  
17 A Yes.  
18 Q Okay. Paragraph 18, talks about "During the  
19 early morning hours of February 14, 2016,  
20 while assisting Donnie..." That was actually  
21 the early morning hours of February 15, 2016,  
22 correct?  
23 A Yes.  
24 Q So that reference in Paragraph 18 to February  
25 14th is inaccurate?

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1 way to your employment or your separating from  
2 the City?  
3 A That she's been charged with a crime?  
4 Q Yes, that's what the question is.  
5 A I have no idea.  
6 Q Are you aware of whether or not Ms. Carlton  
7 has been convicted of any crime related to  
8 your employment or separation?  
9 A Not that I'm aware of.  
10 Q Are you aware of anyone at the City of  
11 Cleveland that's been convicted of a crime  
12 related to your separation?  
13 A Not that I'm aware of.  
14 Q Are you aware of anyone at the City of  
15 Cleveland that's been convicted of a crime  
16 related in any way to your employment with the  
17 City?  
18 A Not that I'm aware of.  
19 Q Do you have any reason to believe that  
20 Commissioner Carlton's discharge or that your  
21 discharge was a crime?  
22 A Yes, I do believe it was.  
23 Q What crime do you believe was violated?  
24 A Violation of my civil rights.  
25 Q It's a criminal violation you're suggesting?

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1 A I'm not sure if it's criminal or civil.  
2 Q Do you have any reason to believe that  
3 Commissioner Carlton thought your discharge  
4 was a crime?  
5 MR. LIVINGSTON: Objection.  
6 A I don't know what she was thinking.  
7 Q You can't speak to Commissioner Carlton's  
8 thoughts?  
9 A Yes.  
10 Q Or what she may have believed, correct?  
11 A Right. I don't want to do that.  
12 Q Go to Page 9. See where it says Count 6?  
13 A Yes.  
14 Q Paragraph 53 refers to rules and regulations;  
15 do you see that?  
16 A Yes.  
17 Q What rules and regulations are you referring  
18 to there?  
19 MR. LIVINGSTON: Objection. He's not  
20 a lawyer. He didn't draft the complaint.  
21 You can answer.  
22 A I'm not sure what I meant.  
23 Q Okay. So you don't know offhand what rules  
24 and regulations you claim are violated?  
25 A I'm trying to think if this was City rules and

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1 regulations it was referring to. In that case  
2 it would be progressive discipline and stuff  
3 like that.  
4 Q Anything other than progressive discipline  
5 that you know of?  
6 A No, I don't know.  
7 Q What about in 53, Subparagraph A, it talks  
8 about, "The policies operate as an  
9 unconstitutional prior restraint on the  
10 dissemination of constitutionally protected  
11 expression." What policies are you referring  
12 to there?  
13 A I didn't write this.  
14 Q So do you know what policies are being  
15 referenced there?  
16 A No.  
17 Q Do you know what policies or do you have an  
18 understanding of what policies that you're  
19 alleging are unconstitutional?  
20 MR. LIVINGSTON: Objection. Asked and  
21 answered.  
22 A I would -- I mean, I can speculate.  
23 MR. LIVINGSTON: You don't have to  
24 speculate.  
25 A No, I don't.

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1 Q So as you sit here today it's unclear to you  
2 what policies you're alleging violate the 1st  
3 and 14th Amendment, correct?  
4 A Yes.  
5 Q Do you want to go to work for the City again?  
6 A Yes.  
7 Q Do you have any other claims that you're  
8 alleging against the City other than those  
9 that are outlined in Exhibit 26?  
10 A Everything is in here.  
11 Q So any claim that you may have is in Exhibit  
12 26, your complaint?  
13 A Yes.  
14 Q Real quick, as to Count 5, it's going to be on  
15 Page 8. You see Paragraph 50 there?  
16 A Yes.  
17 Q It alleges that, "The City has failed to train  
18 or inadequately trains its supervisory  
19 employees, including but not limited to  
20 Defendant Carlton..." And it goes on to say  
21 training as to constitutionally protected  
22 speech. Do you see that?  
23 A Yes.  
24 Q What other supervisory employees are you  
25 referring to? Are there any others?



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1 MR. LIVINGSTON: Objection. He didn't  
2 prepare this document. He's not a lawyer.  
3 You can answer if you know.  
4 A Are you talking -- could you ask me that one  
5 more time?  
6 Q Paragraph 50 refers to supervisory employees,  
7 including but not limited to Defendant  
8 Carlton. Who are the other supervisory  
9 employees, if any, that you're referring to in  
10 Paragraph 50?  
11 A It was a number of employees. There is admin  
12 supervisors and field captains.  
13 Q Which ones did you feel that the City of  
14 Cleveland failed to train or inadequately  
15 trained other than Commissioner Carlton?  
16 MR. LIVINGSTON: Same objection.  
17 A I don't think there is any training, so all of  
18 them.  
19 Q So your testimony is all EMS supervisors?  
20 A I don't recall -- I don't recall who exactly I  
21 was referring to in here.  
22 Q Okay. So your Facebook information that was  
23 provided, I know you suggested that your  
24 attorney downloaded that for you. Do you have  
25 any reason to believe that what Facebook would

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1 have provided your attorney was inaccurate?  
2 A I haven't read it so I don't know, but I  
3 don't --  
4 MR. VANCE: Maybe, Bill, you can  
5 answer this for me. Was anything withheld  
6 from what was downloaded from Facebook?  
7 MR. LIVINGSTON: I didn't have any  
8 role in producing it. I believe that was  
9 Mr. Shafron's purview.  
10 MR. VANCE: Will we be able to  
11 find that out?  
12 MR. LIVINGSTON: Of course. I know he  
13 would have handed over everything that he was  
14 required to.  
15 MR. VANCE: Let's take a quick  
16 break here.  
17 (Short recess.)  
18 MR. VANCE: Back on the record  
19 please.  
20 By Mr. Vance:  
21 Q Mr. Marquardt, what I'd like to do now is I'd  
22 like to go through documents that were  
23 received from Facebook and subsequently  
24 produced by your counsel, okay?  
25 A Yes.

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1 Q These are all from the information that was  
2 downloaded and provided to us from your  
3 Facebook page.  
4 Remind me when you update your status,  
5 that's public; it's on your page, or at  
6 least --  
7 A It's just your friends.  
8 Q To your friends on your page, correct?  
9 A Right. It's not public.  
10 MR. VANCE: This is 27.  
11 (Defendants' Exhibit 27  
12 marked for identification.)  
13 Q Do you see these two status updates?  
14 A Yes.  
15 Q Do you recall making these status updates to  
16 to your Facebook page?  
17 A I remember the first one. The second one I  
18 don't recall.  
19 Q The OMG one you don't recall?  
20 A No.  
21 Q And did you shut down your Facebook page for a  
22 while?  
23 A For a short time, yes.  
24 Q Do you have any reason to believe that you did  
25 not make the status update, the second one?

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1 A I can't say definitively truly I believe that  
2 I did it.  
3 Q So your interview with Jim Votypka was also on  
4 February 18, 2016. Do you recall whether or  
5 not this status update was before or after  
6 that interview?  
7 A I don't recall.  
8 Q Okay.  
9 A I don't remember if my hearing was in the  
10 morning or the afternoon.  
11 (Defendants' Exhibit 28  
12 marked for identification.)  
13 MR. VANCE: Mark this is 28.  
14 Q This wasn't actually part of what came from  
15 counsel. This was something that was printed  
16 off I believe by you on the day of your  
17 meeting with Jim Votypka. Do you recall  
18 printing that? I know you said you gave  
19 access or you and Sergeant Chumita looked  
20 through your Facebook page that day?  
21 A Yes.  
22 Q Do you recall that?  
23 A Yes, I did that.  
24 Q And do you recall if Sergeant Chumita printed  
25 out that Facebook page that day?

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1 Q Do you ever make any inconsiderate posts?  
2 A I'm sure I have.  
3 Q Go to the next page please. Bottom comment.  
4 "Don't understand why they have to put black  
5 in front of panther. There are no other color  
6 panthers." What was that about?  
7 MR. LIVINGSTON: Objection.  
8 A A panther. The animal. A panther.  
9 Q Would you relate it to the Black Panthers  
10 though, I'm assuming?  
11 A No.  
12 Q No, no relation to the Blank Panthers?  
13 A No, none at all.  
14 Q Next page, first full comment. "Jamie  
15 Marquardt commented on Shelley Marquardt  
16 Nowak's post." Shelley Marquardt Nowak,  
17 that's your older sister?  
18 A Younger sister.  
19 Q Younger sister. It says -- I'll read it.  
20 "Let us use Cleveland as an example. The last  
21 few good shootings by police officers (meaning  
22 they did their job right and the shooting was  
23 justified) those officers went to court and  
24 were cleared of any wrongdoing. The City of  
25 Cleveland fired both of them anyways." What

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1 is that in reference to?  
2 MR. LIVINGSTON: Objection.  
3 A I don't remember what shootings it was.  
4 Q Just don't recall?  
5 A I don't recall what shootings they were for  
6 sure referring to. And there is no clue in  
7 there to tell me.  
8 Q Good shootings by police officers?  
9 A That's a term -- go ahead.  
10 Q Go ahead. What's the term? What's that mean?  
11 A Good shooting means they didn't do anything  
12 wrong. It doesn't mean good like happy.  
13 Q That was a comment that you made though?  
14 A I don't recall but I believe I made that.  
15 Q The word queer, is that a derogatory term for  
16 a homosexual?  
17 MR. LIVINGSTON: Objection.  
18 A No, I don't think so.  
19 MR. LIVINGSTON: Do you have any  
20 straight relevance to this case in this line  
21 of questioning?  
22 A That's my answer. No, I don't believe it  
23 specifically refers to homosexuals.  
24 Q You don't believe it's a derogatory term?  
25 A That's not what you asked me.

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1 Q I asked you if you thought the term queer was  
2 a derogatory term for homosexuals?  
3 MR. LIVINGSTON: Objection.  
4 A It could be.  
5 Q Bottom of the next page, you made a comment  
6 here to Patrick Semancik. You said, "Did you  
7 Hear the NFL announcers try to describe smear  
8 the queer this weekend?"  
9 A Where are we at?  
10 Q The bottom of the following page.  
11 MR. LIVINGSTON: Objection.  
12 A Okay. What's your question?  
13 Q Did you write that as well?  
14 A I don't recall, but I don't see why I wouldn't  
15 have. Smear the queer -- the reason I know I  
16 probably wrote it is smear the queer is a game  
17 we used to play when we were kids.  
18 Q Same thing as kill the carrier?  
19 A I don't know. Smear the queer was whoever had  
20 the ball, you tackled them. Whoever picked it  
21 up and ran you tackled them. It didn't have  
22 the impact -- the word didn't have the impact  
23 it does now it seems to be like. You know,  
24 you never hear kids say that today.  
25 Q And you noticed that the NFL was specifically

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1 trying not to say that, correct?  
2 A I believe so.  
3 Q Because they realize it's probably not the  
4 proper thing to say?  
5 A I don't know what I meant by it. Smear the  
6 queer is referring to a game we played as a  
7 kid.  
8 Q You also talked about in that post, "Agree my  
9 man. Back to a time when people were not  
10 fucking sensitive." Do you see that?  
11 A Is that on the same page?  
12 Q Same post.  
13 MR. LIVINGSTON: Mind if I direct him?  
14 MR. VANCE: Sure.  
15 MR. LIVINGSTON: Speed things along.  
16 A Yes, I see it.  
17 Q Would you say that?  
18 A I possibly did, yeah.  
19 Q No reason to deny that you did?  
20 A No.  
21 Q Let's go to the next page, middle of the next  
22 page. "Jamie Marquardt commentated on Annie  
23 Latessa's post." Who is Annie Latessa, first?  
24 A I have no idea.  
25 Q It says, "Tamir Rice is dead. Good." Is that

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1 a comment you made, sir?  
2 A No.  
3 Q Any reason to believe that that was not a  
4 comment you made?  
5 A I don't even know who Annie Latessa is.  
6 Q I don't know how but Facebook produced this as  
7 part of your comments, sir.  
8 A I don't recall making that.  
9 Q Do you have any reason to dispute that you  
10 made it?  
11 A Yes, I dispute that I would have made that  
12 comment.  
13 Q Any explanation for how this comment would  
14 have been provided by Facebook, sir?  
15 A I have no -- I can't answer that. I don't  
16 know. I wouldn't have said that and I don't  
17 have any idea who Annie Latessa is.  
18 Q But no explanation for how this ended up in  
19 your comments?  
20 A No.  
21 Q How about the next comment right below that,  
22 "Awesome picture guys. By the way Shelly, my  
23 daughter ended up a gymnast. Now I know what  
24 you went through." Did you make that comment?  
25 A Sure. I mean possible. His daughter is a

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1 gymnast.  
2 Q Jerry Snyder's is?  
3 A His wife -- we all went to school together and  
4 his wife is a gymnast, so obviously they had  
5 to have some knowledge. I would say I wrote  
6 that.  
7 Q Who is Hodggy? Do you know who Hodggy is, by  
8 chance?  
9 A Hodggy?  
10 Q Hodggy. "I just know Hodggy gets to eat this  
11 week." H-o-d-g-g-y. It's above the "Tamir  
12 Rice is dead, good" post.  
13 A I think Hodggy is a character on South Park,  
14 if I remember right. It's possible.  
15 Q Do you believe you made that comment?  
16 A I don't remember making that comment, no.  
17 Q Any reason to deny that you made that comment?  
18 A No, except I don't even know what it's  
19 referring to, to be honest with you.  
20 Q Go to the next page please. Who is Rhonda  
21 Honeycutt Gregory?  
22 A My best friend from high school.  
23 Q Male, female?  
24 A Female.  
25 Q The first full post there on that page, could

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1 you read that please?  
2 MR. LIVINGSTON: Just to clarify, it's  
3 a comment.  
4 MR. VANCE: Comment, yes.  
5 MR. LIVINGSTON: I'm going to object  
6 to this as well.  
7 A "This whole case really pisses me off. If you  
8 were a police officer and a suspect reaches in  
9 his waistband and grabs a gun, would you say,  
10 'excuse me, could I see some ID to see how old  
11 you are and examine that gun to see if it is  
12 real or not?' These undereducated retards  
13 need to worry more about parenting and less  
14 about police misconduct. I am talking about  
15 the politicians when I say that."  
16 Q When was that comment made?  
17 A I believe -- well, I don't know if the date is  
18 before or after the comments. It's June 3rd  
19 either at 2:09 p.m. or 1:34 p.m.  
20 Q June 3, 2015?  
21 A 2015, yes.  
22 Q Did you make that comment, sir?  
23 A I could have, yes.  
24 Q Any reason to deny that you made that comment?  
25 A No.

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1 Q What is this referring to?  
2 A I don't know. A police shooting of some type.  
3 Q The police shooting of Tamir Rice?  
4 A It doesn't say that.  
5 Q But you don't have a recollection?  
6 A I --  
7 Q Hold on a second. We discussed earlier today  
8 the Tamir Rice shooting had to deal with  
9 whether or not the gun was real, correct?  
10 A We talked about that, yes.  
11 Q And it also had to do with a 12 year old boy?  
12 A Yes.  
13 Q And there was some discussion in the public as  
14 to whether or not he truly looked like he was  
15 12 years old or not?  
16 MR. LIVINGSTON: Objection.  
17 A I don't remember talking about that.  
18 Q Do you recall that being the case --  
19 A No.  
20 Q -- at the time?  
21 A At the --  
22 Q That people say aw, he doesn't look 12, this,  
23 that or the other?  
24 A It was on the news, yeah.  
25 Q But you can't confirm that this is related to

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1 Tamir Rice?  
2 A It sounds like it to me.  
3 Q Let's go to the next page, please, sir.  
4 Second post. "Jerry Marquardt commented on  
5 Johnny Mac's post." Can you read that for me  
6 please?  
7 MR. LIVINGSTON: Objection. Go ahead.  
8 A "Liberal judges with light sentences that  
9 release violent animals back on the streets.  
10 Very rarely do these pistol carrying hood rats  
11 not have a long criminal record."  
12 Q Hood rats, that's the same phrase that was  
13 used in the post that you were discharged for;  
14 was it not?  
15 A It's commonly used.  
16 Q Let's go to the next page. That last post,  
17 that was on April 12, 2015?  
18 A If the date follows the comment, yes.  
19 Q It appears that the date follows it.  
20 A If that's the case, then yes.  
21 Q The bottom comment there. It says, "I am  
22 tired of the media attacking public safety  
23 forces. If you are so good at your jobs, you  
24 would do some investigating and find the root  
25 cause. Police shootings are the criminals and

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1 their parents fault." Is that how you feel?  
2 MR. LIVINGSTON: Objection.  
3 A It appears at this particular time, yes.  
4 Q And that's something that you had -- this was  
5 a comment you made?  
6 A I could have, yes.  
7 Q Any reason to deny that you made this comment?  
8 A No, I don't have any reason to deny it.  
9 Q Let's go to the next page please. The last  
10 comment there. That's a comment on your own  
11 post. It says --  
12 A Yeah, I'm not sure exactly what that means.  
13 Q It means that you have a post up on your page  
14 and then you comment on your own post, right?  
15 A Yeah. That sounds right.  
16 Q Okay. So that's something that you're putting  
17 out to all your Facebook people, right?  
18 A Yes, it would.  
19 Q Can you read that post for me, or that comment  
20 please?  
21 A "We used to shoot each other with BB guns. I  
22 remember having to go home and tell my mom one  
23 was under my skin. I got my ass whipped.  
24 Yet, I would never dream of going to a park  
25 and pointing it at someone. Just my friends."

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1 Q "LOL"?  
2 A "LOL".  
3 Q "I would never dream of going to a park and  
4 pointing it at someone;" is that in reference  
5 to Tamir Rice?  
6 A Sounds like it.  
7 Q Now, you testified and you told Mr. Votypka  
8 that you never posted anything publicly about  
9 Tamir Rice on your Facebook page.  
10 A I didn't.  
11 Q But if this related to Tamir Rice then this  
12 was a comment --  
13 A I forgot about this one.  
14 Q So that testimony to Mr. Votypka was not  
15 truthful?  
16 A At the time I did not remember doing this,  
17 this post.  
18 Q But now that you've seen it you realize that  
19 the testimony to Mr. Votypka was untruthful?  
20 A No, it wasn't untruthful. I forgot about  
21 this. I didn't lie to him.  
22 Q It wasn't true though?  
23 MR. LIVINGSTON: Objection. Asked and  
24 answered.  
25 A Yeah. Like I said, at the time I answered

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1 that question I was being truthful. Now that  
2 you've shown me this I would answer  
3 differently.  
4 Q So what you said to Mr. Votypka then was not  
5 accurate?  
6 A Not with the facts that you presented me with  
7 today, no.  
8 Q Let's go to the next page please, sir. Post  
9 that says February 18, 2015 at the top. Again  
10 this is you commenting on your own post. It  
11 says, "I would kill these people myself given  
12 the chance. They are pure evil." Any idea  
13 what that is in reference to?  
14 A I have no idea. I'd have to see the original  
15 post.  
16 Q Well, this is a reference to you saying you'd  
17 kill someone, right?  
18 A Apparently, yes. I don't have any idea.  
19 Q Let's go to -- did you make that post?  
20 A I don't remember.  
21 Q Or that comment?  
22 A I don't remember making it. Maybe if I knew  
23 what the reason was or what it was about.  
24 Q Well, any reason to believe you didn't make  
25 it?

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1 A I can't answer that one way or the other  
2 because I don't even know what I'm talking  
3 about.  
4 Q Go to the next page please. Top comment,  
5 "Collinsworth is a throwback faggot. I can't  
6 stand his stupid ass."  
7 MR. LIVINGSTON: Objection.  
8 Q Is that what it says?  
9 A That's what it says.  
10 Q Is that a comment that you made?  
11 A I don't remember but I'm not denying it.  
12 Q Let's go to the next page please. Top post.  
13 This is you commenting on your own post. This  
14 is, "Just like downtown Cleveland when they  
15 stood in front of the freeway and would not  
16 let anyone on. Sorry but there was no  
17 crosswalk there, your ass is getting run over  
18 unless you move. We will have it out in court  
19 while you sit all busted up in your wheelchair  
20 with Friedman, Domiano & Smith. I will be on  
21 the other side saying, 'Stay the fuck out of  
22 the middle of the road. It is for cars, not  
23 liberal castrated college students. December  
24 11, 2014.'" Do you see that?  
25 A Yes.

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1 Q Is this a comment that you made on your own  
2 post?  
3 MR. LIVINGSTON: Objection.  
4 A Probably. I was just being funny. It was  
5 nothing serious.  
6 Q And this was --  
7 A This was about the protest downtown.  
8 Q About the Tamir Rice protest, right? There  
9 was a protest about Tamir Rice and they  
10 blocked off the Shoreway?  
11 A I don't recall what the protest was about.  
12 MR. LIVINGSTON: Objection.  
13 Q So you're suggesting you would run these  
14 people over, that was a joke?  
15 A It was a joke, yes.  
16 Q Were you upset by the protests that were being  
17 had?  
18 MR. LIVINGSTON: Objection.  
19 A I don't recall at the time. I don't agree  
20 with them.  
21 Q Do you feel that people shouldn't have been  
22 protesting?  
23 A No, I believe the people should be lawfully  
24 protesting. That was not lawful.  
25 Q Let's go to the next page please.

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1 By the way, so that last post, that was  
2 December of 2014, that was the month after  
3 Tamir Rice had passed away, correct?  
4 A I don't recall.  
5 Q We established earlier that he passed away  
6 November of 2014; do you recall that?  
7 A Yes.  
8 Q Okay. First full comment on the next page  
9 there. December 5, 2014. It says, "Protest  
10 the guy choked by police. I agree. But,  
11 people want to protest the kid in Cleveland  
12 that clearly reached for his gun and began to  
13 pull it out of his waistband after being told  
14 to put his hands up. Yes, the kid was 12  
15 years old, but he did not look 12 and he had a  
16 gun. Anyone with a gun can kill someone  
17 whether they are 12 or 90. Police have a  
18 second to decide." Is that related to Tamir  
19 Rice, sir?  
20 A It sounds like it.  
21 Q Any reason to believe it did not relate to  
22 Tamir Rice?  
23 A I have no reason to believe it.  
24 Q Did you make this comment, sir?  
25 A I could have.

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1 Q Any reason to believe you did not?  
2 A What's that?  
3 Q Any reason to believe that you did not?  
4 A I just don't remember it but I'm not saying I  
5 didn't do it.  
6 Q Let's go to the next page please. It's the  
7 first full post. This is comment on your own  
8 post. Do you see that?  
9 A Yes.  
10 Q And it was made on November 24, 2014,  
11 2:15 a.m. Do you see that?  
12 A Yes.  
13 Q That's the day after Tamir Rice died?  
14 A Okay.  
15 Q It says, "Baby" -- how do you pronounce that?  
16 A Bebe.  
17 Q "Bebe, fuck these little ghetto rats that kill  
18 innocent people."  
19 ghetto rats. That sounds familiar.  
20 I've seen that before. That's also in the  
21 post that you were discharged for; was it not?  
22 A Yeah, it's a common term.  
23 Q Let's start from the beginning. "Bebe, fuck  
24 these little ghetto rats that kill innocent  
25 people." Who were you ever referring to

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1 there?  
2 A I don't remember.  
3 Q The day after Tamir Rice died and you don't  
4 know who that was about?  
5 MR. LIVINGSTON: Objection.  
6 A He didn't kill anybody, so I'm not referring  
7 to him. I don't know who I was referring to.  
8 Q "You, as I would, would bust our kids asses  
9 before they reached that point. Whatever  
10 happening to cracking a board across their  
11 kids ass if they got out of pocket."  
12 So is this post in any way related to  
13 Tamir Rice, sir?  
14 A I don't see that at all.  
15 Q Do you recall whether or not it was?  
16 A There is nothing in there that says anything  
17 about it.  
18 Q And we don't have your actual posts because  
19 you have not produced them, correct?  
20 A Because what?  
21 Q Your posts.  
22 A I don't know what the original post said.  
23 Q Okay. Let's go to the next page please.  
24 Bottom of that. This is Jamie Marquardt  
25 commented on his own post?

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1 A Okay.  
2 Q This is actually on the day Tamir Rice died,  
3 November 23, 2014. It says, "Certain acts as  
4 a criminal will get you killed no matter what  
5 color you are. Pulling a gun on a police  
6 officer is one of them." That relate at all to  
7 Tamir Rice, sir?  
8 A I don't know. I would make that statement,  
9 but --  
10 Q Beg your pardon?  
11 A I would -- I mean, I'm not saying, I just  
12 don't know who it was referring.  
13 Q Coincidental that it happened to be the same  
14 day?  
15 A I don't know if it's coincidental or not.  
16 Q It may actually refer to Tamir; you just don't  
17 remember?  
18 A It may.  
19 Q Go to the next page, sir. The second full  
20 post is a Jamie Marquardt comment on Cleveland  
21 19 New's photo. Do you see that?  
22 A Yeah.  
23 Q Also on November 23, 2014, the day Tamir Rice  
24 passed away. Terri Lewis you are a fucking  
25 illiterate and stupid. Did you see the gun?

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1 It is an exact replica and you cannot tell the  
2 difference during the day, let alone at night.  
3 You are the whole problem. Blame the police.  
4 Let black people do whatever they want with no  
5 consequences. Racist bitch."  
6 MR. LIVINGSTON: Objection. Asked and  
7 answered.  
8 Q Did you make that comment?  
9 A I don't remember. This is only one of the  
10 comments looks like.  
11 Q Any reason to believe you did not make that  
12 comment?  
13 A I don't feel that way so I'm not going to say  
14 I did.  
15 Q Any reason to believe you did not make that  
16 comment, sir?  
17 A Yes.  
18 Q Okay. Do you have any explanation for why  
19 Facebook produced this to your counsel who in  
20 turn produced it to me?  
21 A Well, you have to have -- you have to be  
22 logged into 19 News to make a comment. I'm  
23 not logged into 19 News, so I don't know what  
24 to say.  
25 Q So somehow this is just another one of those

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1 unexplainable posts?  
2 A Not unexplainable. I don't know, I could have  
3 made it but I'm just telling you I don't have  
4 a 19 News account.  
5 Q You commented on a photo by Cleveland 19 News.  
6 A Oh, okay. Whatever. Yeah.  
7 Q You believe you made that comment, sir?  
8 A I don't believe I did, but I could have. I  
9 don't know.  
10 Q Does this relate to Tamir Rice, sir?  
11 A I don't know. It doesn't say that. Sounds  
12 like it.  
13 Q A replica gun?  
14 A Sounds like it, yes, it does.  
15 Q Let's me ask you -- let's do the next one  
16 first. There is another comment, same day but  
17 this one is on Dee McNamara's. Is that John  
18 McNamara's wife?  
19 A Yeah.  
20 Q And this comment is also on November 23, 2014.  
21 It says, "What does the kids father have to  
22 say about all this? Oh, that's right, there  
23 is none. I agree, they keep using the word  
24 'rookie,' like that played a role. I have  
25 seen the gun. The orange plug at the end of

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1 the barrel to indicate it is a toy was removed  
2 and it is an exact replica otherwise. At  
3 night, how would one know it was a toy? Not  
4 to mention, this criminal had a gun pointed at  
5 him and was ordered to raise his hands above  
6 his head. I stand behind this officer. No  
7 one mentions how scared he must have been in  
8 this situation." Did you make that comment,  
9 sir?  
10 A It's possible.  
11 Q Any reason to deny you made that comment?  
12 A No.  
13 Q Was this related to Tamir Rice, sir?  
14 A It also sounds like it, yes.  
15 Q Now you told Mr. Votypka that you had never  
16 made any comments or posts about Tamir Rice.  
17 That was inaccurate?  
18 MR. LIVINGSTON: Objection.  
19 A Again, at the time of the hearing I do not  
20 remember making any posts about Tamir Rice.  
21 Q Okay. So since you didn't remember that at  
22 the time of the hearing with Votypka you  
23 classify that as not being a lie?  
24 A Right, I wasn't being deceitful.  
25 Q But it wasn't accurate though, correct?

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1 A As of today, no, it apparently was inaccurate.  
2 MR. VANCE: Move on to Exhibit  
3 31.  
4 (Defendants' Exhibit 31  
5 marked for identification.)  
6 Q So now these are your posts from Facebook; is  
7 that correct?  
8 A It appears to be, yes.  
9 Q Compilation of them. Let's start with the  
10 first big one on the first page.  
11 A Okay.  
12 Q If these are your posts then that means they  
13 are public to those people that you are  
14 friends with?  
15 A Yes, my friends.  
16 Q It says, "Jamie Marquardt updated his status."  
17 This on March 23, 2015. It says, "Parents let  
18 kids decide" -- this is starting in the  
19 middle. "Parents let kids decide whether or  
20 not they want to go to school or pursue crime.  
21 Last but not least, if a thug dies, all the  
22 mother has to say is, 'Why did my baby have to  
23 die?' or 'He was just getting his life  
24 together,' and he is a hero and the mother is  
25 off the hook for poor parenting skills."

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1 So here you make this connection  
2 between criminal being a hero. Do you see  
3 that?  
4 A Uh-huh.  
5 Q I'm sorry, is that a yes?  
6 A Yes. I'm sorry.  
7 Q And that similar connection is made in Exhibit  
8 5, the Facebook post that ultimately resulted  
9 in your separation, correct?  
10 MR. LIVINGSTON: Objection.  
11 A I don't -- I don't see the connection between  
12 the two.  
13 Q The post talks about, "Cleveland sees this  
14 felony hood rat as a hero." Do you see that?  
15 A Yes.  
16 Q Similar content?  
17 A A lot of people feel that way, yes.  
18 Q And that was a similar concept that you  
19 conveyed on March 23, 2015?  
20 A If you want me to say I'm connecting the post  
21 to that, I don't see it.  
22 Q I'm just asking whether or not your post on  
23 March 23, 2015 connected this idea that people  
24 see criminals as hero?  
25 A The concept of the two, I guess, yeah. I mean

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1 yeah, you can say that.  
2 Q Let's go to the next page, sir.  
3 Remind me again where was Tamir Rice  
4 shot, that 12 year old boy?  
5 A What area?  
6 Q Where was it specifically he was shot?  
7 A At a park on the west side.  
8 Q What park?  
9 A I don't remember.  
10 Q Cudell Park?  
11 A That sounds familiar, yeah. It's off 98th.  
12 Q Let's go to the bottom post on that page. And  
13 this is a post made on November 28, 2014. So  
14 same week as Tamir Rice passed away. Starting  
15 toward the bottom it says, "Time for the  
16 community to start rallying and marching in  
17 support of the police force!" Is that how you  
18 felt?  
19 A I always feel that way.  
20 Q "The minority seems to have the biggest mouths  
21 and the smallest brains. CNN would also cover  
22 a march and protest for the police department  
23 if the majority organized it. We need to  
24 stand behind the men and women in blue and  
25 Thank them for protecting us everyday from

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1 these street thugs like the one shot at  
2 Cudell."  
3 A I think this is a cut and paste.  
4 Q I'm sorry, how is this a cut and paste, sir?  
5 A There is a link above it.  
6 Q Okay.  
7 A And this looks like a cut and paste. I don't  
8 know who Oscar Grant is.  
9 Q It says here "Jamie Marquardt shared a link."  
10 A But you can cut and paste a post.  
11 Q So this was something that you cut and pasted  
12 into your page?  
13 A Yes, but I didn't write it.  
14 Q But it was something that you cut and pasted  
15 on your page?  
16 A Yeah.  
17 Q You don't believe that you said or put these  
18 words to this?  
19 A I didn't put these words on there. I cut and  
20 pasted them. So yes, some of it I agree with.  
21 Q Do you agree that "so the street thug like the  
22 one shot at Cudell," that's a reference to  
23 Tamir Rice; is it not?  
24 A Yeah.  
25 Q And that was on your page, correct?

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1 A This was on -- yeah, you gave it to me. Looks  
2 like it was on my page.  
3 Q Publicly, correct?  
4 A Public?  
5 Q Publicly to those that you're friends with?  
6 A Just my friends. It doesn't go public.  
7 Q Let's go to the next page please. November  
8 27, 2014. There is a post in the middle  
9 there, "Jamie Marquardt updated his status,"  
10 talking about the police and the military.  
11 You state, "If you insult them, you are  
12 insulting me and I will lash out."  
13 A Yes.  
14 Q Is that something you stated in a status on  
15 your Facebook page?  
16 A Yeah, I believe I did.  
17 Q Let's go to the next page please. This is on  
18 November 23, 2014 updated to your status. And  
19 the status update is, "I have to say, I am so  
20 angry I cannot see straight. All the violence  
21 that happened this weekend in Cleveland and  
22 the media and politicians can only blame gun  
23 legislation and the police. Someone in the  
24 public eye needs to take a stand and blame the  
25 parent because there is no father, a general

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1 lack of respect for authority, and the weak  
2 justice system we now have in the country.  
3 Please pray we can start pointing fingers in  
4 the right direction."  
5 Who is the -- what exactly is this in  
6 reference to?  
7 A I think it's just a general statement.  
8 Q What was the violence this weekend in  
9 Cleveland?  
10 A I don't recall.  
11 Q Tamir Rice was part of that violence, I'm  
12 assuming?  
13 A If that was the same weekend, yes, it would  
14 have been.  
15 Q And is this an assumption on your part that  
16 there was no father involved in Tamir Rice's,  
17 life?  
18 A I think it's a common problem. I don't think  
19 it's just Tamir Rice.  
20 Q Is it limited to any particular group of  
21 people --  
22 MR. LIVINGSTON: Objection.  
23 Q -- you're using that for?  
24 A No. Criminals.  
25 Q Criminals?

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1 A Yes.  
2 Q So your position is that criminals as a  
3 general matter lack a father figure?  
4 A No. It says common. It's common.  
5 Q So it's common for criminals to lack a father  
6 figure?  
7 A It's common for a lot of people, but it just  
8 seemed more so in the criminal population.  
9 Q Any other population?  
10 MR. LIVINGSTON: Objection.  
11 A No, that's not -- no, criminals is what I was  
12 referring to.  
13 Q Are you sure about that?  
14 MR. LIVINGSTON: Objection. Asked and  
15 answered.  
16 A I already answered you.  
17 Q And I'm asking are you sure that that's what  
18 you're referring to is criminals?  
19 A Yes.  
20 MR. VANCE: Let's go to Exhibit  
21 32.  
22 (Defendants' Exhibit 32  
23 marked for identification.)  
24 Q Update to your status. Do you see that?  
25 A Yes.



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1 A Just messing around. I've never taken a  
2 picture on a call so I know it wasn't from any  
3 of my calls.  
4 Q Never even had a picture from any of your  
5 calls?  
6 A No, just a car. I'll take a picture of a car  
7 that is smashed, but never a face or anything  
8 like that.  
9 Q And she goes on to say, "All I can say is it's  
10 a good thing he did it the bathtub so he  
11 didn't make a mess."  
12 MR. LIVINGSTON: Objection.  
13 A Yeah, sounds like there was a picture on the  
14 Internet that was going around of a guy that  
15 blew his head off. I think that's what that  
16 is referring to.  
17 Q Is that in Cleveland?  
18 A No.  
19 Q Let's keep going. I'm going to go to Page 23.  
20 I have a post here the top of 23, or not a  
21 post, excuse me, it's another message to  
22 Ms. Honeycutt Gregory. "Closely related to  
23 the Jessie Jackson guilty, but playing the  
24 race card, nigger fund;" do you see that?  
25 A Yes. Yes.

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1 Q Is that one of your N word jokes?  
2 MR. LIVINGSTON: Objection.  
3 A I don't know. I don't know what I was  
4 referring to.  
5 Q Well, you had previously in a prior message  
6 said the Al Sharpton guilty nigger fund. Do  
7 you see that?  
8 A Yes.  
9 Q Any idea what that was in reference to?  
10 A No.  
11 Q Was that a joke?  
12 A It could have been. I'm not sure what it's  
13 referencing.  
14 Q Did you these messages, sir?  
15 A I could have.  
16 Q And this is the same page. "They are fucking  
17 retards." Do you see that?  
18 A Yeah.  
19 Q Retards, that's a derogatory term as well,  
20 isn't it?  
21 MR. LIVINGSTON: Objection.  
22 A Uh-huh, yes.  
23 Q Yeah?  
24 A Yes.  
25 Q Derogatory term?

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1 A It is nowadays.  
2 Q It was back in 2014?  
3 A To some people, yes.  
4 Q Is it to you?  
5 A No.  
6 Q No. To this day it's not?  
7 MR. LIVINGSTON: Objection.  
8 A A lot of people use that word about -- it's  
9 just when you use it your whole life it's  
10 nothing. It doesn't mean anything. It's not  
11 like it's attacking people with, you know,  
12 disabilities and stuff.  
13 Q Let's go to the last message there on that  
14 day, the bottom one here. This goes on to the  
15 next page. This was on December 7, 2014. So  
16 about two weeks after Tamir Rice unfortunately  
17 passed away. This is your message to  
18 Ms. Honeycutt Gregory: "I had one of our  
19 black dispatchers ask me the other day why the  
20 police car had to pull the car up so close to  
21 Tamir. (Tamir is the African name for pistol  
22 holding criminal nigger with no parental  
23 supervision.) I told her the police should  
24 have bounced his skull off the under carriage  
25 of the police car. She filed racist charges

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1 against me. I had to laugh." Did you send  
2 that message, sir?  
3 A It is, but it's a lie.  
4 Q Did you send that message, sir?  
5 A I don't know, but it's a lie. I could have.  
6 Q What do you mean it's a lie?  
7 A None of this is true. I didn't have any  
8 charges filed against me and this conversation  
9 never happened.  
10 Q So did you just tell --  
11 A I think I was just messing with her.  
12 Q You were just messing with her?  
13 A Yeah. This is a private conversation between  
14 two friends.  
15 Q A private conversation speaks to the type of  
16 person you are I would say, wouldn't you?  
17 MR. LIVINGSTON: Objection.  
18 A No.  
19 Q No?  
20 A No, because it's -- you're taking jokes and  
21 making it sound like it's some type of --  
22 never mind. I'm not going to say it.  
23 Q Go ahead, say what you were going to say  
24 please.  
25 A No, I'm done.

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1 A Yes.  
2 Q And he worked with you at EMS?  
3 A Yes.  
4 Q And he still works for EMS?  
5 A Yes.  
6 Q And here on June 7, 2017 you're exchanging  
7 messages with Mr. Flores; do you see that?  
8 A Yes.  
9 Q And you're joking around, it appears, or your  
10 talking about as long as -- he says, "As long  
11 as the women are in the kitchen, it would be a  
12 great field trip." Did you see that?  
13 A Yes.  
14 Q And you say in response, "They are allowed to  
15 leave the kitchen to clean up the bedroom and  
16 make the bed"?  
17 A Yes.  
18 Q Just joking around?  
19 MR. LIVINGSTON: Objection.  
20 A Yes.  
21 Q We'll use the same page numbers that we did  
22 before, top right-hand corner. Do you see  
23 that?  
24 A Which page?  
25 Q We're going to go now to Page 7 please. And

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1 here on February 15, 2016 at 12:46 p.m.  
2 Mr. Flores sends you a message, "Yo, did you  
3 really write that stuff on FB about Tamir?" Do  
4 you see that?  
5 A Yes.  
6 Q And then the response from you at 3:27 p.m. on  
7 February 15, 2016, "No. I just saw it. Shit  
8 I am so pissed. I will get him back. I went  
9 to take leak and....." Do you see that?  
10 A Yeah.  
11 Q So what did you mean by that, your response?  
12 A Which part?  
13 Q "I went to take a leak."  
14 A Well, this is when I first found it, the post,  
15 so I didn't know what happened, when he did  
16 it.  
17 Q Okay. So you're at least explaining to  
18 Mr. Flores you thought maybe it was when you  
19 were taking a leak?  
20 A Yeah. I don't know if it was that or, like I  
21 said earlier, when I went to do laundry or I  
22 hadn't -- this was one of the posts I told you  
23 earlier when my friends were notifying me that  
24 the post was there.  
25 Q Got you.

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1 MR. VANCE: Mark this 38.  
2 (Defendants' Exhibit 38  
3 marked for identification.)  
4 Q These are more comments that were made by you.  
5 Do you see that?  
6 A Yes.  
7 Q If you can go to second page here. And toward  
8 the bottom there there is one on February 15,  
9 2016 at 8:31 p.m. You're commenting on your  
10 own post. Do you see that?  
11 A Yes.  
12 Q "I am tired of it right now. I am ready to  
13 get rid of Facebook." Then you say --  
14 basically ask people to call you if they have  
15 issues and if not don't you dare let me hear  
16 you running your mouth about me?  
17 A Yes.  
18 Q What was that in relation to?  
19 A Well, apparently the Facebook post.  
20 Q The Exhibit 5?  
21 A Yeah.  
22 Q The post about Tamir?  
23 A I mean judging by the time it would be safe to  
24 assume that.  
25 Q And then next page you've got another post,

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1 February 15, 2016 at 6:26 p.m. saying, "You  
2 know how this will be dealt with if you know  
3 me." Do you see that?  
4 A Yes.  
5 Q There has been a handful along those lines.  
6 Did you ever take or seek any retribution from  
7 Donnie?  
8 A No.  
9 Q This is kind of just talk?  
10 A Yeah.  
11 Q On the next one it's got 191 of 466 at the  
12 bottom. Do you see that, on the bottom left  
13 corner?  
14 MR. LIVINGSTON: He's there.  
15 A Which one?  
16 Q It says "Kevin Poplar yes" in the middle.  
17 It's a reply to Samuel Grigg's comment.  
18 A Yes.  
19 Q Any idea what that was related to?  
20 A No, I don't.  
21 Q Next page, do you know who John Shreve is?  
22 A Yes.  
23 Q Who is that?  
24 A My friend from high school.  
25 Q Ever talk with Donnie about John Shreve?

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1 saying there is not anybody else out there.  
2 Q Okay. Did you talk to your cousin at all,  
3 Kevin Poplar?  
4 A Have I talked to him? No.  
5 Q Have you talked to him at all since these  
6 posts?  
7 A I saw him at my aunt's funeral.  
8 Q Did you two talk about the posts at all?  
9 A Yes.  
10 Q What did the two of you discuss?  
11 A He said that he saw -- he was watching the  
12 news and it came on the news and he spit his  
13 coffee across the table. Kind of joked about  
14 it.  
15 Q Anything else?  
16 A No, that's it. Just, you know, I don't  
17 remember the rest of the conversation. That's  
18 the one thing I remember him saying.  
19 Q Any idea how old Donnie is?  
20 A Who?  
21 Q How old Donnie is?  
22 A I would say maybe six years younger than me.  
23 Q So how old does that put him?  
24 A Probably about -- no, I'd say he's younger  
25 than that. Maybe 41, 42.

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1 Q Any idea what he does for a living?  
2 A No.  
3 Q Anything else that you know about Donnie that  
4 would help contact or identify him?  
5 A I told you everything I know. He lives in the  
6 Parma area. He's in AA, you know.  
7 Q You still go to meetings?  
8 A Does he?  
9 Q Do you?  
10 A Yes.  
11 Q Same meetings that you used to see Donnie at?  
12 A No.  
13 Q Don't go to those meetings anymore?  
14 A Not -- no. One of them I do, the rest I  
15 don't. But I did go back there when I was  
16 looking for him.  
17 MR. VANCE: Let's take a brief  
18 break if we can here.  
19 (Short recess.)  
20 MR. VANCE: We're back on the  
21 record.  
22 By Mr. Vance:  
23 Q Mr. Marquardt, I don't have any additional  
24 questions for you. The only thing I would do  
25 is I'd give you an opportunity if there is

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1 anything you'd like to add right now you have  
2 the floor.  
3 A No, I don't have anything to add.  
4 Q Okay. Then the only thing to say as we  
5 conclude is there are some issues -- there are  
6 some documents that are outstanding. I know I  
7 sent an email about some medical records that  
8 are in dispute.  
9 MR. LIVINGSTON: Do you want to go off  
10 the record for this?  
11 MR. VANCE: Well, just briefly we  
12 are going to have to have a conversation about  
13 that. There is also some records from  
14 Verizon. So I'd just like to leave the  
15 deposition open subject to receipt of  
16 additional documents eventually.  
17 MR. LIVINGSTON: Okay. We'll read.  
18 (Deposition concluded at 4:27 p.m.)  
19 (Signature not waived.)  
20 ---  
21  
22  
23  
24  
25

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1 **SIGNATURE PAGE**  
2  
3 In Re: Jamie Marquardt v. Nicole Carlton, et al  
4 Case Number: 1:18-CV-003330-SO  
5 Deponent: Jamie Marquardt  
6 Date: Wednesday, December 12, 2018  
7  
8 To the Reporter:  
9 I have read the entire transcript of my  
10 Deposition taken in the captioned matter or the same  
11 has been read to me. I request that the following  
12 changes be entered upon the record for the reasons  
13 indicated.  
14 I have signed my name to the Errata Sheet and the  
15 appropriate Certificate and authorize you to attach  
16 both to the original transcript.  
17  
18  
19  
20 Jamie Marquardt  
21 Subscribed and sworn to before me this  
22 \_\_\_\_ day of \_\_\_\_, 2019.  
23  
24 Notary Public  
25 My commission expires: \_\_\_\_\_.

1 State of Ohio, )  
 2 County of Cuyahoga, ) SS: CERTIFICATE

3 I, Karen A. Toth, Notary Public in and for the  
 4 State of Ohio, duly commissioned and qualified, do  
 5 hereby certify that the within named witness,  
 6 Jamie Marquardt, was by me first duly sworn to  
 7 testify the truth, the whole truth, and nothing but  
 8 the truth in the cause aforesaid; that the testimony  
 9 then given by him was by me reduced to  
 10 stenotypy/computer in the presence of said witness,  
 11 afterward transcribed, and that the foregoing is a  
 12 true and correct transcript of the testimony so  
 13 given by him as aforesaid.

14 I do further certify that this deposition was  
 15 taken at the time and place in the foregoing caption  
 16 specified and was completed without adjournment

17 I do further certify that I am not a relative,  
 18 counsel, or attorney of either party, or otherwise  
 19 interested in the event of this action.

20 IN WITNESS WHEREOF, I have hereunto set my  
 21 hand and affixed my seal of office at Cleveland,  
 22 Ohio on this 27th day of December, 2018.

23 *Karen A. Toth*

24 Karen A. Toth, Notary Public in  
 25 and for the State of Ohio.  
 My Commission expires May 6, 2023.

